

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 27 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

WILLIAM LYNN STRINGFIELD,)
)
Petitioner,)
)
vs.)
)
JOHN GRIDER, WARDEN, OKLAHOMA)
STATE REFORMATORY,)
)
Respondent.)

72-C-130

ORDER

The Court having examined the Petition for Writ of Habeas Corpus filed herein by the Clerk and having examined the Report of of the United States Magistrate concerning the same and being fully advised in the premises, finds:

It does not appear that the applicant has exhausted the remedies available in the Courts of the State of Oklahoma, or that there is either an absence of available state corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the prisoner (22 USCA 2254). Although the petitioner did pursue an unsuccessful direct appeal from the state judgment of conviction, he has chosen to ignore the state post conviction remedy provided (22 O.S.A. 1080 et seq.). The institution of a post conviction action in the state sentencing court is a pre-requisite to the granting of habeas corpus relief in this court (see Brown vs. Crouse, 395 F.2d 755, [C.A. 10 1968], and Omo vs. Crouse, 395 F.2d 757 [C.A. 10 1968]).

IT IS, THEREFORE, ORDERED that the Petition for Writ of Habeas Corpus of William Lynn Stringfield be and it is hereby denied and dismissed.

Dated this 26th day of June, 1972 at Tulsa, State of Oklahoma.

United States District Court)
Northern District of Oklahoma) ss

I hereby certify that the foregoing is a true copy of the original on this Court. John H. Poe CLERK, UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF OKLAHOMA

John H. Poe, Clerk

By W. H. Vaughn
Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MR. and MRS. SAM A. ORCUTT,

Plaintiff,

vs.

THE CORPORATION COMPANY
MISSOURI PACIFIC RAILROAD
COMPANY, a corporation,

Defendant.

Civil Action File
No. 71-C-279 ✓

FILED

JUN 27 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL

On this 27 day of June, 1972 the above styled action was presented to the Honorable Allen E. Barrow upon the Stipulation for Dismissal, both plaintiff and defendant herein and the court having examined such stipulation finds that the relief requested therein should be granted.

IT IS THEREFORE ORDERED that the above styled action be dismissed without prejudice to the institution of any further proceedings.

Allen E. Barrow

Judge

APPROVED AS TO FORM:

BAKER & BAKER

By: *Jay C. Baker*

Jay C. Baker
Attorney for Plaintiffs

DYER, POWERS & MARCH

By: *William K. Powers*

William K. Powers
Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

HUGH MCGINNIS WALKER,

Petitioner,

-vs-

STATE OF OKLAHOMA and
PARK J. ANDERSON, Warden,

Respondents.

Case No. 72-C-122 Civil

FILED

JUN 26 1972

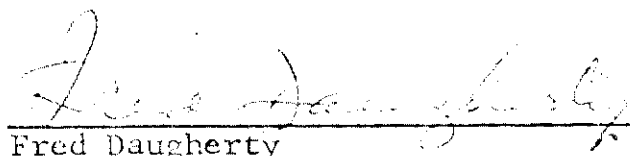
JOHN H. POE, Clerk
U. S. DISTRICT COURT

ORDER

On the representations made by Respondents in their Supplemental Response and attachment thereto filed herein on June 22, 1972, the Petition herein is dismissed as being moot.

If Petitioner should disagree with this disposition of the case he may move that it be revived in which Motion he should set forth the reason or reasons why his Petition has not become moot by reason of his discharge from custody.

It is so ordered this 27th day of June, 1972.


Fred Daugherty
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

TESSIE FAY OWEN,

Plaintiff,

vs.

MARL W. McCUTCHEN,

Defendant.

NO. 71-C-270

RECEIVED

JUN 26 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

MOTION FOR DISMISSAL

Comes now the plaintiff, Tessie Fay Owen, and moves the Court to dismiss this cause, and, in support of her motion, states to the Court that a settlement and disposition of this cause has been agreed upon by the parties, and that this action should be dismissed.

THORNTON & STAMPER

By

Gerald G. Stamper

Gerald G. Stamper
1111 Mid-Continent Building
Tulsa, Oklahoma 74103
587-2544
Attorneys for Plaintiff

ORDER

For good cause shown, the foregoing motion of the plaintiff for dismissal of this action is granted.

IT IS, THEREFORE, ORDERED that the above-styled and numbered cause is dismissed with prejudice.

Dated this 21st day of June, 1972.

Allen E. Barrow

Allen E. Barrow,
United States District Judge

APPROVED:

THORNTON & STAMPER

By

Gerald G. Stamper

Gerald G. Stamper, Attorneys for Plaintiff

DONOVAN & FREESE

By

Gerard K. Donovan

Gerard K. Donovan, Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JAMES CURTIS HESTER,

Petitioner,

vs.

PARK J. ANDERSON, Warden,
Oklahoma State Penitentiary,
McAlester, Oklahoma,

Respondent.

NO. 71-C-408

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JUN 26 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

O R D E R

The Court has for consideration a petition for writ of habeas corpus filed by James Curtis Hester, an inmate at the Oklahoma State Penitentiary. The petitioner is there under conviction and sentence on a plea of guilty to uttering and publishing a forged instrument in two separate causes of action, Case No. CRF-70-426 and CRF-70-590, in the Washington County District Court, Bartlesville, Oklahoma. His state remedies have been exhausted by post-conviction proceedings in the State Courts of Oklahoma, Case Nos. A-16,742 and A-16,838, wherein an evidentiary hearing was held in the District Court of Washington County, relief denied, and the District Court's decision affirmed by the Oklahoma Court of Criminal Appeals.

Petitioner before this Court contends that his right to due process of law, guaranteed by the Constitution of the United States, was abridged in the State proceedings in that he agreed to plead guilty as a result of plea bargaining between his appointed defense counsel and the State's prosecuting attorney and that the sentence imposed was not in accordance with the agreement; and, that the sentence was not explained by Court or counsel so that he understood it, rendering such plea to be without his knowledge or understanding. He further asserts inadequate and incompetent representation by his appointed counsel.

This Court has before it the complete files of the aforementioned State proceedings, including transcripts of the evidentiary hearing and of the plea and sentence in CRF-70-426 and CRF-70-590. Therefrom, the Court finds as follows:

1. That the State prosecuting attorney offered to recommend to the Court a sentence of two years imprisonment in each cause of action if restitution was not made on the checks; or, if such restitution was made, a sentence of two years imprisonment in CRF-70-426, and one year imprisonment in CRF-70-590, totaling three years imprisonment.

2. That the prosecuting attorney's sentence recommendation offer was submitted to defendant by his defense counsel; accepted by the defendant, a high-school graduate, cognizant of what he was doing and

knowledgeable, from previous conviction and imprisonment, with Court and imprisonment procedures; and, the defendant made restitution on the checks.

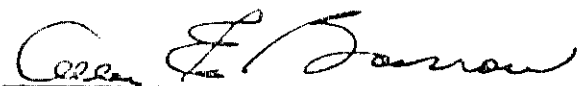
3. That the prosecuting attorney in open Court did acknowledge that defendant had made restitution and recommended the Court sentence the defendant to two years imprisonment in CRF-70-426 and one year, consecutive, in CRF-70-590, as he had stated he would. Immediately following such recommendation by the prosecuting attorney, the Court explained that defendant was entitled to have two days elapse before the Court would pronounce sentence. The defendant voluntarily waived such waiting period, and the Court adopted and imposed the sentence recommended. Petitioner in his post-conviction proceedings asserts that he did not understand at that time what "consecutive" meant, yet, before leaving the Courtroom, without further explanation, the defendant advised his defense counsel that the way the sentences were entered, two years on the first charge and one year on the second, would require him to complete his first term before he would be eligible for parole.

4. That a defense attorney is not expected or required to be omnisciently informed in all matters, such as a particular warden's rule of thumb, and, when defendant was aware of the recommended sentence, fully informed by the Court and admittedly understood that he could wait two days before sentence would be pronounced by the Court, he was free to accept such two days to further discuss the matter with his attorney and clarify any possible misunderstanding he might have; or, see if his attorney could work out a better recommendation. The defendant freely, knowingly, and voluntarily waived the protection open and explained to him, and admittedly understood by him. He may not later, under such circumstances, be heard to complain that his attorney was at fault because inadequate or incompetent.

The Court further finds that the record supports the findings as set out above and clearly belies the contentions of the petitioner in his petition for writ of habeas corpus; that an evidentiary hearing before this Court is not required; and, that the petition for writ of habeas corpus herein should be denied.

IT IS, THEREFORE, ORDERED that the petition for writ of habeas corpus of James Curtis Hester be and it is hereby denied and dismissed.

Dated this 26~~th~~ day of June, 1972, at Tulsa, Oklahoma.



CHIEF JUDGE, UNITED STATES DISTRICT
COURT, NORTHERN DISTRICT OF OKLAHOMA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ROBERT H. MARTIN and
BRUCE C. SCOFIELD,

Plaintiffs,

-vs-

LAUREL STEWART, HAROLD THEILIG,
INTERNAL PIPELINE SERVICES, INC.,
and INTERNAL PIPELINE COATINGS,
INC.,

Defendants.

FILED

JUN 26 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

No. 71-C-348

ORDER OF JUDGMENT AGAINST DEFENDANT HAROLD THEILIG

Now on this 26th day of June, 1972, there comes before the Court for its consideration and ruling the Motion for Judgment filed herein by the plaintiffs, acting by and through their attorneys, which Motion for Judgment is based upon the written "Stipulation and Agreement for Judgment" filed herein with regard to the defendant Harold Theilig.

Heretofore the Court has ordered the parties to the captioned civil action to have a pre-trial conference between the attorneys of the parties and to prepare and file a pre-trial order. The parties have conducted a pre-trial conference pursuant to the order of the Court and as a result of that conference a separate written "Stipulation and Agreement for Judgment" has been entered into between the plaintiffs on the one hand and the individual defendant Harold Theilig on the other hand. Said Stipulation and Agreement for Judgment as to the defendant Theilig has been filed with the Court together with a motion by the plaintiffs requesting the Court to enter judgment upon the terms and conditions stated in said Stipulation.

Now, therefore, it appearing to the Court that the individual defendant Harold Theilig has entered into a specific stipulation and agreement which provides the basis for a judgment to be entered herein to fully resolve and adjudicate all issues existing between the plaintiffs and said individual defendant, as contained and set forth in the complaint filed herein; and it further appearing to the Court that the defendant corporations, Internal Pipeline Services, Inc. and Internal Pipeline Coatings, Inc. are nominal defendants joined by the plaintiffs in order to comply with the pleading rules applicable to stockholder derivative actions under the Federal Rules of Civil Procedure; and it further appearing to the Court that the judgment to be entered upon the written Stipulation and Agreement filed by the other parties will not adversely affect the right of the defendant corporations;

IT IS THEREFORE THE ORDER AND JUDGMENT of this Court as follows:

1. The Court finds that the 325,000 shares of the no-par value common stock of Internal Pipeline Coatings, Inc., a Texas corporation, which were issued on December 3, 1968, to Bill J. Ramey, Jack S. Wood and Harold P. Theilig were issued for good and valuable consideration in the amount of \$3,000.00 and that said 325,000 shares of IPC stock are validly issued and outstanding.

2. The Court further finds that the 325,000 shares of IPC stock issued in June, 1970, to the defendant Harold P. Theilig, were issued without good and valuable consideration and it is the further finding of the Court that the issuance of said shares was in violation of the Texas Business Corporation Act and therefore such shares are null and void and should be canceled upon the stock records of IPC.

3. It is the further finding of the Court that any shares of Internal Pipeline Services, Inc., issued on the basis of the original 325,000 shares of IPC stock which were issued on December 3, 1968, are properly issued and outstanding and this judgment shall not affect the ownership or validity of said IPS shares.

4. It is the further finding of the court that the IPS shares issued to the defendant Theilig in the fall of 1970 on the basis of the claim by Theilig that he owned 325,000 shares of IPC stock by reason of the aforementioned illegal issue of such shares in June, 1970, are also null and void and should be canceled upon the stock records of IPS.

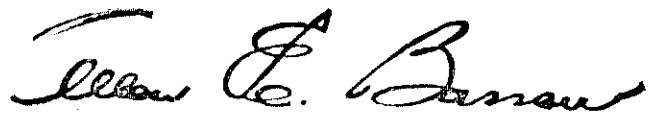
IT IS THEREFORE THE ORDER, JUDGMENT AND DECREE of this Court that the 325,000 shares of IPC stock issued in June, 1970, to the defendant Theilig are declared null and void and to have no force and effect and it is ordered that the issuance of such shares shall be canceled upon the stock records of IPC; it is the further order of the court that any shares of IPS stock issued in the fall of 1970 to the defendant Theilig based upon his claimed ownership of IPC shares which are declared null and void by this judgment shall also be null and void and by this order of judgment canceled upon the stock records of IPS.

It is the further order, judgment and decree of the Court that the plaintiffs have failed to prove the other allegations against the defendant Theilig contained in their Complaint filed in this civil action and judgment is entered in favor of the defendant Theilig upon all other claims for relief contained in said Complaint not heretofore resolved by the Court. Specifically, it is the finding of the Court that the defendant Theilig has no obligation to either Internal Pipeline Coatings, Inc. or Internal Pipeline Services,

Inc. for the restitution of money or damages in connection with payments made by said corporations to said individual defendant Theilig as alleged in said complaint or in connection with the letter offer made by the defendant corporations to certain individual stockholders to repurchase shares of stock from them.

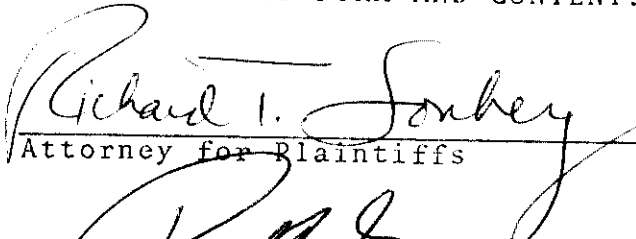
IT IS THE FURTHER ORDER of the Court that each of the parties herein shall pay their own costs in connection with this civil action.

ORDERED the day and year first above stated.

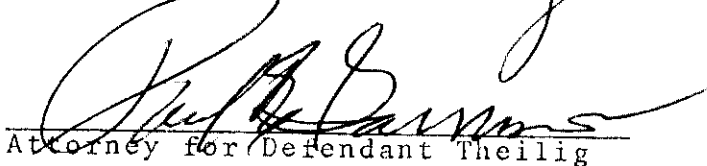


United States District Judge

APPROVED AS TO FORM AND CONTENT:



Attorney for Plaintiffs



Attorney for Defendant Theilig

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

BILLY TOM WAITMAN,
Petitioner,
v.
STATE OF OKLAHOMA,
Respondent.

72-C-111

FILED

JUN 25 1972

JOHN L. POE, Clerk
U. S. DISTRICT COURT

O R D E R

THE DEFENDANT HAS FILED HEREIN his Petition for Writ of Habeas Corpus. He has also filed a request for appointment of counsel and various other pleadings attacking the Response of the state. The court has examined the files and records in this case, which include the transcripts in the following cases in the District Court of Tulsa County: CRF-69-539, CRF-69-541, and CRF-69-556; and the Appearance Docket, information, Judgment and Sentence in Case No. 3714, District Court of Stephens County, Oklahoma.

The petitioner claims that his conviction for the crime of Burglary in the Second Degree after his plea of guilty in said Case No. 3714 on April 14, 1965, was void because he did not have counsel and did not waive counsel. He then contends this allegedly void conviction was used by the state to enhance punishment in said cases numbered CRF-69-539 and CRF-69-556.

It is not disputed that the petitioner, on June 6, 1969, appeared before the District Court of Tulsa County with competent counsel and entered free and voluntary guilty pleas in three cases: CRF-69-539, Kidnapping in the Second Degree After Former Conviction of a Felony; CRF-69-541, Robbery with Firearms; and CRF-69-556, Robbery with Firearms After Former Conviction of a Felony. In the two cases alleging former conviction, he was

specifically asked by the court concerning the fact of his former conviction, which he admitted. In the kidnapping case, he received a sentence of ten years imprisonment, and in each of the other two cases, he received a sentence of from fifteen to forty-five years. It was adjudged that all sentences were to be served concurrently.

The issue here presented was considered by the Court of Criminal Appeals of the State of Oklahoma, which stated in its unreported opinion in Case No. A-15916, dated July 8, 1970:

"The former conviction which petitioner contends is constitutionally defective was sustained by the petitioner in the District Court of Stephens County, case No. 3714, on April 14, 1965, when petitioner entered a plea of guilty to the charge of Burglary, Second Degree, for which petitioner was sentenced to two years imprisonment in the State Penitentiary. The Court Clerk's minutes in case No. 3714 of Stephens County indicated that petitioner appeared before the Court where he was informed he was entitled to an attorney, and if he was unable to employ one, the Court would employ one for him. The defendant then stated in open Court that he did not need an attorney and did not want one. The right to counsel is not a requirement that counsel must always be present where it appears that a defendant waived the right to counsel after being advised of this right, and that counsel could be secured at no cost to him, we find it was a voluntary waiver and thus, the conviction was not constitutionally defective. It is thus apparent that the Burgett decision is not applicable in the instant case."

A subsequent post-conviction proceeding in the sentencing court made the same finding. The petitioner has exhausted his state remedies, and there are no material facts which require an evidentiary hearing. A plea of guilty has the effect of admitting all material facts alleged in the charge. Kahl v. United States, 204 F.2d 864 (CA 10 1953). When the petitioner intelligently and voluntarily, after conferring with competent counsel, entered his plea of guilty in CRF-69-539 and CRF-69-556, one of the elements of the offense which he admitted was the fact of a valid prior conviction. No proof was required, and none was introduced by the state. Therefore, assuming the conviction was void, it was not used by the state to enhance his

punishment. Further, the state courts have found the petitioner did waive counsel at the time of his former conviction. This is certainly supported by the record which affirmatively shows that the petitioner was advised that he was entitled to an attorney, and if he was unable to employ an attorney, the court would employ one for him; thereafter, he stated he did not need one and did not want one. In Burgett v. Texas, 389 U.S. 109 (1967), the Supreme Court said that presuming waiver of counsel from a silent record was impermissible, but here the record is not silent. The allegations of a prisoner need not be accepted to the extent they are contradicted by the court's records. United States v. Davis, 319 F.2d 482 (CA 6 1963).

ACCORDINGLY, IT IS ORDERED:

1. The request for the appointment of counsel is denied by the court in its discretion;

2. The Petition for Writ of Habeas Corpus and all other pleadings seeking release or other relief are denied and the case is dismissed.

DATED THIS 22nd DAY OF JUNE, 1972:

Lothar Bohannon
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

RAYMOND W. EARLEY,)
)
Plaintiff,)
)
v.) Civ. 72-C-6
)
UNITED STATES OF AMERICA,)
SECRETARY OF HEALTH, EDUCATION,)
AND WELFARE,)
)
Defendant.)

FILED

JUN 12 3 1972

JOHN L. FOL Clerk
U. S. DISTRICT COURT

O R D E R

THIS IS AN ACTION brought by the plaintiff, Raymond W. Earley, pursuant to Title 42 U.S.C. § 405(g), to review the final decision of the Secretary of Health, Education, and Welfare, denying plaintiff continued disability insurance benefits after June 1970, under the Social Security Act as amended. The plaintiff, Raymond W. Earley, appears by and through his attorneys, Ward, Brown & Perrault, by Robert G. Brown. The defendant, the Secretary of Health, Education, and Welfare, appears by and through his attorney, Robert P. Santee, Assistant United States Attorney for the Northern District of Oklahoma. The court has carefully considered the pleadings and transcript of the record, and finds that the Findings of Fact of the Secretary are supported by substantial evidence and are conclusive upon the court.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the decision of the Secretary that the plaintiff has been physically and mentally capable of performing substantial gainful work since April of 1970; that he was not entitled to a continued period of disability and/or disability insurance benefits after the month of June 1970; that the claimant and his beneficiaries received an overpayment of Social Security disability insurance

benefits in the sum of \$233.90; that the claimant was not without fault in receiving the said overpayment; and that waiver of adjustment or recovery of the said overpayment in the sum of \$233.90 shall not be applied, is affirmed.

DATED THIS 21st DAY OF JUNE, 1972.

Luther Bohannon
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

EVERETT TUCKER,

Petitioner,

vs.

PARK J. ANDERSON, Warden,
Oklahoma State Penitentiary,
McAlester, Oklahoma,

Respondent.

NO. 72-C-10 ✓

FILED

JUN 22 1972

U. S. DISTRICT COURT

O R D E R

The Court has for consideration a petition for writ of habeas corpus filed by Everett Tucker, an inmate in the Oklahoma State Penitentiary, serving a life sentence upon conviction of murder. The offense was committed March 24, 1935, the petitioner and his brother, co-defendant who died in 1964, were arrested therefor on May 9, 1935, and petitioner entered a plea of guilty on May 13, 1935, Case No. CR-2727, in the District Court of Osage County, Oklahoma.

Petitioner has exhausted his state remedies by post-conviction proceeding, wherein an evidentiary hearing was held on March 30, 1971, and his petition denied on April 22, 1971, by the District Court of Osage County, Oklahoma. Said decision was appealed, A-16,842, and denied by the Oklahoma Court of Criminal Appeals on November 3, 1971, reported Tucker v. State, Okl. Cr., 490 P.2d 1108 (1971).

Petitioner here asserts, as he did in the State proceedings, that he was denied due process of law in the 1935 conviction in that he was not advised of his right to counsel, the seriousness of the offense with which he was charged, the consequences of his plea, or his right to appeal. He further contends that he was coerced into pleading guilty to an offense that he did not commit.

The Court has before it the complete file and transcript of the evidentiary hearing in the State proceedings, and the Court finds that the findings of fact and conclusions of law, and decisions of the State Courts are supported by the record. Therefore, the Court finds that an evidentiary hearing before this Court is not required; and, that pursuant to 28 U.S.C. § 2254(d) the petition for writ of habeas corpus herein should be denied.

IT IS, THEREFORE, ORDERED that the petition for writ of habeas corpus of Everett Tucker be and it is hereby denied and dismissed.

Dated this 22nd day of June, 1972, at Tulsa, Oklahoma.

Wm. E. Johnson
CHIEF JUDGE, UNITED STATES DISTRICT
COURT, NORTHERN DISTRICT OF OKLAHOMA

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

DARRELL EDMON HALL,
Petitioner,
v.
WARDEN PARK J. ANDERSON,
STATE OF OKLAHOMA,
Respondents.

72-C-91

FILED

JUN 25 1972

JOHN H. POE Clerk
U. S. DISTRICT COURT

O R D E R

PETITIONER HAS FILED a Petition for Writ of Habeas Corpus, and respondents move to dismiss the same.

The facts are not disputed. On February 8, 1952, the petitioner was sentenced to a term of ten years in the Oklahoma State Penitentiary by the District Court for Tulsa County, Oklahoma, pursuant to his conviction in that court for the crime of Robbery With Firearms. He was released on parole June 8, 1955. On November 16, 1957, he was sentenced to a term of thirty years in the Oklahoma State Penitentiary by the District Court for Tulsa County, pursuant to his conviction in that court, for the crime of Robbery With Firearms After Former Conviction of a Felony. He is presently serving this sentence. On November 27, 1957, the State Pardon and Parole Officer issued a "Warrant for Taking Paroled Prisoner," directing the arrest and detention of the petitioner pending the Governor's action upon revocation of his parole. The parole was not formally revoked until November 15, 1961.

As grounds for relief, the petitioner alleges:

- "(a) Double Jeopardy (10 year sentence expired)
- "(b) Denial of Due Process of Law
Denial of Equal Protection of the Law
- "(c) Holding in abeyance of old sentence while serving present sentence"

In substance he complains that his parole from the 1952 sentence was revoked after the expiration of the original sentence, and that it is improper to require him to serve his current sentence before he starts serving the balance of his original sentence.

The petitioner has exhausted his state remedies and there is no dispute concerning material facts which might require an evidentiary hearing. The issues presented are matters of interpretation of state law. When the parole of the petitioner was revoked, he lost all accumulated credits for work and good behavior, 57 O.S.A. § 332.14, and all credit for any time which he had spent on parole. 57 O.S.A. § 350. The petitioner asserts that he had accrued sufficient credits to discharge his sentence on September 15, 1958. He ignores the fact that the warrant for re-taking was issued prior to that time and the parole itself was revoked within the period of the original sentence. Under 57 O.S.A. § 332.12, the Pardon and Parole Officer was authorized to issue a warrant for the arrest of the petitioner upon receiving information sufficient to give him reasonable grounds to believe that the parolee had violated the terms or conditions of his parole, and upon the arrest of the parolee, he was to be immediately incarcerated to await the Governor's action on a revocation or an order denying revocation of his parole. It is the issuance of the warrant which is the significant act and the Governor was not required to act upon the revocation of the parole until the warrant was executed, which might or might not be prior to the expiration of the original term. It is also the Oklahoma rule that a parolee who is convicted of a crime while on parole must serve the new sentence prior to serving the unexpired portion of his original sentence. Application of Cooley, 295 P.2d 816 (Okla.Cr. 1956). Matters relating to sentencing and service of sentence, allowance of good time credits, etc., are governed by state law and do not raise a federal constitutional question. Burns v. Crouse, 339 F.2d 883 (CA 10 1964), cert. denied

380 U.S. 925, 13 L.Ed.2d 811; Johnson v. Beto, 383 F.2d 197
(CA 5 1967); Gurczynski v. Yeager, 339 F.2d 884 (CA 3 1964).

ACCORDINGLY, IT IS ORDERED:

1. That the motion for appointment of counsel is
denied by the court in its discretion;
2. That the Petition for Writ of Habeas Corpus is
dismissed.

DATED THIS 24 DAY OF JUNE, 1972:

Luther Bohannon
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

AMF INCORPORATED, a corporation,

Plaintiff,

vs.

BOWL-A-RAMA, INC.,
an Oklahoma corporation, et al.,

Defendants.

NO. 71-C-393

FILED

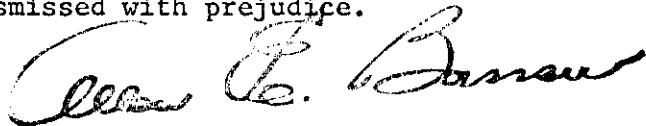
JUN 23 1972

JAMES E. WORK
U. S. DISTRICT COURT

ORDER ALLOWING DISMISSAL WITH PREJUDICE

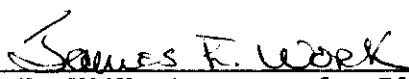
In consideration of the plaintiff's application to dismiss with
prejudice and in consideration of the personal check given in settle-
ment of this controversy, the Court herewith

ORDERS that this case is dismissed with prejudice.



UNITED STATES DISTRICT JUDGE

O.K.


JAMES E. WORK, Attorney for Plaintiff
Of Counsel:
Shirk, Withington, Work & Robinson
1108 Colcord Building
Oklahoma City, Oklahoma 73102

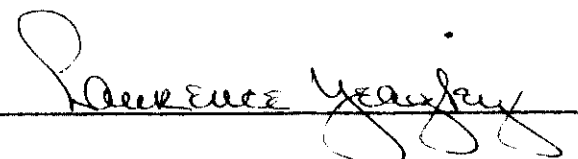
CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and
foregoing Order was mailed on the 22 day of June, 1972, to the
following attorneys of record:

Mr. R. James Unruh, attorney for City Finance
Company of Fourth Street, Inc.
613 National Bank of Tulsa Building
Tulsa, Oklahoma 74103

Mr. Marvin E. Spears, Assistant District Attorney
Tulsa County Courthouse
Tulsa, Oklahoma 74103
attorney for Board of County Commissioners

Mr. Bruton Wood, Director
Oklahoma Employment Security Commission
Will Rogers Memorial Building
2401 Lincoln Boulevard
Oklahoma City, Oklahoma 73105



IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

FEDERAL INSURANCE COMPANY, a
foreign insurance corporation,

Plaintiff,

vs.

No. 71-C-165

BENNY THOMAS; MAX LEE LEWIS;
BETTY LEE BECKHAM; JOHN L.
BECKHAM; MID-CONTINENT CASUALTY
COMPANY, an Oklahoma Insurance
Corporation; and FARMERS INSUR-
ANCE EXCHANGE, a foreign
insurance corporation,

Defendants.

FILED

JUN 22 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

O R D E R

NOW on this 22nd day of June, 1972, pursuant to the
Stipulation entered into between the parties hereto, said issues
having been settled and resolved between the parties the above
captioned cause is hereby dismissed with prejudice.

Ellen E. Barrow

JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,

Plaintiff,

vs.

70.00 Acres of Land, More or Less,
Situate in Nowata County, State of
Oklahoma, and Nellie Augusta Miller,
et al., and Unknown Owners,

Defendants.

CIVIL ACTION NO. 71-C-20

Tracts Nos. 1262M, 1264M,
and 1266M

FILED

JUN 23 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 22 day of June, 1972, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of Judgment on the Report of Commissioners filed herein on May 31, 1972, and the Court after having examined the files in this action and being advised by counsel for the plaintiff finds that:

2.

The Court has jurisdiction of the parties and the subject matter of this action.

3.

This Judgment applies to the entire estate taken in the tracts enumerated in the caption above, as such tracts and estate are described in the Complaint filed in this action.

4.

Service of process has been perfected either personally or by publication notice as provided by Rule 71A of the Federal Rules of Civil Procedure on all parties defendant in this cause, who are interested in subject tracts.

5.

The Acts of Congress set out in Paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the subject tracts of land. Pursuant thereto, on January 26, 1971, the United States of America filed its Declaration of Taking of a certain estate in

such tracts of land, and title to such property should be vested in the United States of America, as of the date of filing such Declaration of Taking.

6.

Simultaneously with the filing of the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the taking of the described estate in subject tracts, a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 11.

7.

The Report of Commissioners filed herein on May 31, 1972, is hereby accepted and adopted as a finding of fact as to the subject property. The amount of just compensation for the subject property as fixed by the Commission is set out below in paragraph 11.

8.

The defendants named in paragraph 11 as owners of subject property are the only defendants asserting any interest in the estate condemned herein; all other defendants having either disclaimed or defaulted, the named defendants are the owners of the estate taken in the subject tracts, and, as such, are entitled to receive the just compensation awarded by this judgment.

9.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the United States of America has the right, power, and authority to condemn for public use the subject tracts, as such tracts are described in the Complaint filed herein, and such property, to the extent of the estate described in such Complaint, is CONDEMNED, and title thereto is vested in the United States of America, as of the date of filing the Declaration of Taking, and all defendants herein and all other persons are forever barred from asserting any claim to such estate.

10.

It Is, Further ORDERED, ADJUDGED AND DECREED that on the date of taking in this case, the owners of the subject property were the defendants whose names appear below in paragraph 11, and the right to receive the just compensation for the taking of such property is vested in the parties so named.

11.

It Is Further ORDERED, ADJUDGED AND DECREED that the Report of Commissioners filed herein on May 31, 1972, hereby is confirmed and the sum therein fixed is adopted as the award of just compensation for the taking of the subject property, as shown by the following schedule:

TRACTS NOS. 1262M, 1264M, and 1266M

Owners:

Nellie Augusta Miller 2/5

Edgar C. Welch 3/5

Award of just compensation		
pursuant to Commissioners' Report	\$188.00	\$188.00
Deposited as estimated compensation	<u>\$188.00</u>	
Disbursed to owners		<u>none</u>
Balance due to owners		\$188.00

12.

It Is Further ORDERED that the Clerk of this Court disburse the funds on deposit for the subject tracts as follows:

To:

Nellie Augusta Miller \$75.20

Edgar C. Welch \$112.80

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,

Plaintiff,

vs.

62.00 Acres of Land, More or Less,
Situate in Nowata County, State of
Oklahoma, and John Merle Smith,
et al., and Unknown Owners,

Defendants.

CIVIL ACTION NO. 71-C-214

Tract No. 1259M

FILED

JUN 22 1972

JOHN L. POE, Clerk
U. S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 22 day of June, 1972, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment on the Report of Commissioners filed herein on May 31, 1972, and the Court after having examined the files in this action and being advised by counsel for the Plaintiff, finds that:

2.

The Court has jurisdiction of the parties and the subject matter of this action.

3.

This judgment applies to the entire estate condemned in Tract No. 1259M, as such estate and tract are described in the Complaint filed in this action.

4.

Service of Process has been perfected either personally or by publication notice as provided by Rule 71A of the Federal Rules of Civil Procedure on all parties defendant in this cause, who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the property described above in paragraph 2. Pursuant thereto, on June 9, 1971, the United States of America filed its Declaration of Taking of such

property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the estate taken in the subject tract a certain sum of money, and none of this deposit has been disbursed as set out below in paragraph 11.

7.

The Report of Commissioners filed herein on May 31, 1972, hereby is approved, and adopted as a finding of fact as to subject tract. The amount of just compensation for the estate taken in the subject tract, as fixed by the Commission, is set out below in paragraph 11.

8.

The defendants named in paragraph 11 as owners are the only defendants asserting any interest in the estate condemned herein; all other defendants having either disclaimed or defaulted, as of the date of taking, the named defendants were the owners of the estate condemned herein and, as such, are entitled to receive the just compensation awarded by this judgment.

9.

It Is, Therefore, ORDERED, ADJUDGED AND DECREED that the United States of America has the right, power, and authority to condemn for public use the subject tract, as such tract is described in the Complaint filed herein, and such property, to the extent of the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of June 9, 1971, and all defendants herein and all other persons are forever barred from asserting any claim to such estate.

10.

It Is, Further ORDERED, ADJUDGED AND DECREED that on the date of taking in this case, the owners of the subject property were the defendants whose names appear below in paragraph 11, and the right to receive the just compensation for the taking of such property is vested in the parties so named.

11.

It Is Further ORDERED, ADJUDGED AND DECREED that the Report of Commissioners filed herein on May 31, 1972, hereby is confirmed and the sum therein fixed is adopted as the award of just compensation for the taking of the subject property, as shown by the following schedule:

TRACT NO. 1259M

Owners:

John Merl Smith 1/2

Clara I. Daugherty 1/2

Award of just compensation
pursuant to Commissioners' Report \$192.00 \$192.00

Deposited as estimated compensation 192.00

Disbursed to owners none

Balance due to owners \$192.00

12.

Is Is Further ORDERED that the Clerk of this Court shall disburse the deposit for the subject tract as follows:

To: John Merl Smith \$96.00
Clara I. Daugherty \$96.00

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

BRISCOE TRUCKING COMPANY, INC.,)
A Corporation,)
Plaintiff,)
VS.)
OKLAHOMA PERISHABLE EXPRESS, INC.,)
A Corporation,)
Defendant.)

CIVIL ACTION NO. 72-C-86

FILED

JUN 22 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

J U D G M E N T

The Defendant, Oklahoma Perishable Express, Inc., having failed to plead or otherwise defend in this action and its default having been entered,

Now, upon application of the Plaintiff and upon affidavit that Defendant is indebted to Plaintiff in the sum of Ten Thousand Four Hundred and Eighty-Six Dollars and Seventy-Two Cents (\$10,486.72), that Defendant has been defaulted for failure to appear and that Defendant is a foreign corporation, it is hereby

ORDERED, ADJUDGED AND DECREED that Plaintiff recover of Defendant the sum of Ten Thousand Four Hundred and Eighty-Six Dollars and Seventy-Two Cents (\$10,486.72), with interest at the rate of 10% per annum from the date of this judgment and costs in the sum of Twenty-Seven Dollars and Eighty-Eight Cents (\$27.88).

DATED: June 22 1972

John H. Poe
CLERK
By Helen R. Muelken,
Dep. Clerk

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

BUFORD BRUNER,

Petitioner,

vs.

STATE OF OKLAHOMA,

Respondent.

NO. 71-C-420

O R D E R

The Court has for consideration a pro se instrument filed in forma pauperis by Buford Bruner entitled "petition for writ of habeas corpus and declaratory judgment" wherein petitioner alleges that he was convicted of larceny from a merchant in the Tulsa County District Court of Oklahoma, and sentenced on November 21, 1969, to three years imprisonment. Petitioner states that subsequent thereto he was turned over to Federal authorities, convicted of narcotic law violations, and sentenced to 12 years imprisonment, which Federal Sentence he is now serving.

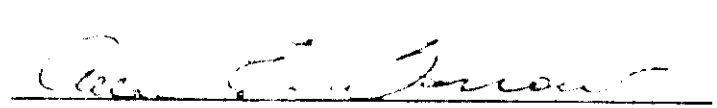
Petitioner seeks in this Court to have the detainer from the State of Oklahoma removed which commands that petitioner, upon release from his Federal sentence, be returned to Oklahoma to serve his State sentence. Petitioner asserts that the State of Oklahoma lost jurisdiction to enforce its sentence by permitting the petitioner to be tried, convicted, and sentenced on the Federal charges.

The Court finds that this contention is without merit as the jurisdiction and custody over a person convicted of independent crimes in a State and Federal Court is a matter of comity between the two Governments, and the prisoner has no personal rights that affect the jurisdiction of the sovereigns. As long as the prisoner owes a sentence to both sovereigns involved, the sovereign alone may raise objections to interference with its right to possession of the prisoner, and the prisoner may not complain. See the cases relied upon by the petitioner, United States v. Traeger, 44 F.2d 313 (9th Cir. 1930) and Rawls v. United States, 166 F.2d 532 (10th Cir. 1948); as well as, Mitchell v. Boen, 194 F.2d 405 (10th Cir. 1952); Jones v. Taylor, 327 F.2d 493 (10th Cir. 1964); and Gregory v. Page, 289 F.Supp. 317 (E.D.Okla. 1968), a few in a long line of cases.

The Court finds that, for failure to raise an issue cognizable in the constitutional sense, the petition requires no further consideration; that neither response nor hearing is required; and, that the petition herein should be denied.

IT IS, THEREFORE, ORDERED that the petition for writ of habeas corpus and declaratory judgment of Buford Bruner be and it is hereby denied and dismissed.

Dated this 21st day of June, 1972, at Tulsa, Oklahoma.


CHIEF JUDGE, UNITED STATES DISTRICT
COURT, NORTHERN DISTRICT OF OKLAHOMA

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JOSEPH H. LaFRANCE,

Plaintiff,

vs.

THE UNITED STATES OF AMERICA,

Defendant.

CIVIL ACTION NO. 72-C-175 V

FILED

JUN 21 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

ORDER APPROVING COMPROMISE SETTLEMENT

The stipulation of the parties of the above action dated the 20th day of June, 1972, wherein it is agreed by the defendant, United States of America, to pay to the plaintiff, Joseph H. LaFrance, the sum of \$6,300.00 without admission of liability or fault on the part of said defendant and wherein the plaintiff agrees to accept said sum in full and complete satisfaction of all claims and demands arising out of the incident giving rise to this litigation, is hereby approved pursuant to the provisions of 28 U.S.C., 2677, and

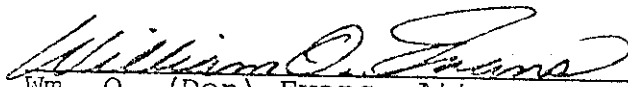
IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED THAT this action be dismissed with prejudice and without costs upon payment of the amount stated to the plaintiff by the defendant, and

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that attorneys' fees charged by plaintiff's counsel are not to be in excess of those allowed by 28 U.S.C., 2678, and such fees are to be paid out of and not in addition to the settlement amount to be paid to plaintiff.

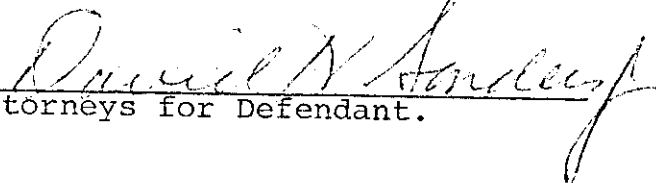

UNITED STATES DISTRICT JUDGE

Allen E. Baran
JUDGE

APPROVED AS TO FORM:


Wm. O. (Don) Evans, Attorney
for Plaintiff

SANDERS, MCELROY & CARPENTER

By 
Attorneys for Defendant.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

CURTIS L. LAWSON,

Petitioner,

vs.

STATE OF OKLAHOMA, ex rel.,
Dave Faulkner, Sheriff of
Tulsa County,

Respondent.

NO. 72-C-44

FILED

JUN 19 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

O R D E R

The Court has for consideration a petition for writ of habeas corpus of Curtis L. Lawson wherein the petitioner states he was tried by jury and found guilty in the Tulsa County District Court, that said convictions were affirmed on appeal, and a petition for rehearing was denied by the Oklahoma Court of Criminal Appeals.

Petitioner alleges that his rights guaranteed by the Eighth and Fourteenth Amendments of the Constitution of the United States are abridged in that without hearing and opportunity to show that he is a proper subject for bail, he is imprisoned and deprived release on bail pending certiorari to the Supreme Court of the United States pursuant to Rule 1.17(b), Amended Rules of the Oklahoma Court of Criminal Appeals, which provides:

" . . . When the petition for rehearing has been denied, as herein before set, the mandate shall not be recalled nor stayed pending appeal to any other Court, nor shall bail be allowed by this Court pending an appeal from a final decision of this court . . . "


The Court finds that it is the general rule that the constitutional guaranty of the right to non-excessive bail refers only to cases in which the accused has not yet had a trial, Application of Owens, Okl. Crim., 349 P.2d 766 (1960), and it does not confer a right to bail after a conviction, and pending appeals therefrom. A defendant in a criminal case does not have a right to be released on bail after being judged guilty.

Further, the Court finds that the laws of the State of Oklahoma protect the rights of every person to due process of law and give any person illegally or unconstitutionally held in custody within the State the right of habeas corpus protection in the State Courts. Okl. St. Ann. Const. Art. 2 §§ 7 and 10; 12 Okl. St. Ann. § 1331, et seq. The petitioner makes no assertion in his petition that he has envoked such adequate and available State remedies, and his habeas corpus petition under authority of 28 U.S.C. § 2254 absent such showing is premature in the Federal Court.

The Court thus finds that for failure to show the exhaustion of adequate and available state remedies, and for failure to raise an issue cognizable in the constitutional sense, that neither response nor hearing is required herein, and that this petition for writ of habeas corpus should be denied.

IT IS, THEREFORE, ORDERED that the petition for writ of habeas corpus of Curtis L. Lawson be and it is hereby denied and dismissed.

Dated this 19th day of June, 1972, at Tulsa, Oklahoma.


CHIEF JUDGE, UNITED STATES DISTRICT
COURT, NORTHERN DISTRICT OF OKLAHOMA

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHNNIE R. GREEN,

Plaintiff,

vs.

ELLIOTT RICHARDSON, Secretary of
Health, Education, and Welfare,

Defendant.)

Case No. 72-C-70

FILED
JUN 12 1972
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

C R D R

After reviewing the file and record in this cause, the recommendation of the Magistrate is hereby approved and

IT IS, THEREFORE, ORDERED THAT the motion to dismiss of the defendant, Elliott Richardson, Secretary of Health, Education and Welfare, be and the same is hereby granted and

IT IS FURTHER ORDERED THAT this matter be remanded to the Secretary of Health, Education, and Welfare for the purpose of securing additional evidence with respect to the plaintiff's claim which has not been previously considered.

C. R. D. R.
UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 16 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

LEWIS WILLIAM WISE,

Plaintiff,

vs.

SHERIFF, TULSA COUNTY,
TULSA, OKLAHOMA,

Defendant.

NO. 72-C-108 ✓

O R D E R

The Court has before it some instruments presented pro se for filing in forma pauperis by Lewis William Wise.

The Federal Code, 28 U.S.C. § 1915(a), provides that:

"Any Court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees and costs or security therefor, by a person who makes affidavit that he is unable to pay such costs or give security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that he is entitled to redress."


28 U.S.C. § 1915(d) provides that:

"The Court may . . . dismiss the case . . . if satisfied that the action is frivolous or malicious."

The Court finds that the commands of the Statute above cited have not been satisfied herein, and leave to proceed in forma pauperis should be denied.

IT IS, THEREFORE, ORDERED that leave to proceed in forma pauperis be and it is hereby denied.

Dated this 15th day of June, 1972, at Tulsa, Oklahoma.


CHIEF JUDGE, UNITED STATES DISTRICT
COURT, NORTHERN DISTRICT OF OKLAHOMA

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

BOARD OF TRUSTEES, PIPELINE
INDUSTRY BENEFIT FUND,

vs.

Plaintiff,

No. 72 C 116 ✓

R. H. FULTON, INC.,

Defendant.

FILED

JUN 16 1972

JOHN L. FUL, CLERK
U. S. DISTRICT COURT

ORDER OF DISMISSAL

NOW, on this 15 day of ~~May~~ ^{June}, 1972, plaintiff's motion for dismissal coming on for consideration and counsel for plaintiff herein representing and stating that all issues controversies, debts and liabilities between the parties have been paid, settled and compromised.

IT IS THE ORDER OF THIS COURT that said action be and the same is hereby dismissed with prejudice to the bringing of another or future action by the plaintiff herein.

Luther Helgeson
DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

DORSEY H. VAIL and
ELOUISE J. VAIL,

Plaintiffs,

vs.

EARL WILLIAM CLIFT,

Defendant.

No. 71-C-258

FILED

JUN 16 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

STIPULATION OF DISMISSAL WITH PREJUDICE

COMES NOW the plaintiffs, Dorsey H. Vail and Elouise J. Vail, through their attorneys, Green, Feldman & Hall, and Robert Bowman Manke, and the defendant, through his attorney, Thomas L. Palmer, and stipulate that the above captioned cause of action be dismissed with prejudice to the filing of a future action herein.

Dorsey H. Vail
Dorsey H. Vail

Elouise J. Vail
Elouise J. Vail

GREEN, FELDMAN & HALL and
ROBERT BOWMAN MANKE

By Thomas L. Palmer
Attorneys for Plaintiffs

Thomas L. Palmer
Thomas L. Palmer
Attorney for Defendant

FILED

JUN 19 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

ORDER

And now on this 19th day of June, 1972, there came on for consideration before the undersigned Judge of the United States District Court for the Northern District of Oklahoma, stipulation of the parties hereto of dismissal, parties hereto having advised the Court that all disputes between the parties have been settled;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above styled case be and the same is hereby dismissed with prejudice to the right of the plaintiffs to bring any future action arising from said cause of action.

A/ Allen E. Barrow
JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

SUN PHOTO COLOR, INC.,
Plaintiff,

vs

CROWN DRUG CENTERS, INC.,
Formerly CROWN DRUG COMPANY, INC.,
OKLAHOMA PHOTO SUPPLY, INC.,
NATIONAL PHOTO CORPORATION and
EXEL PHOTO COMPANY,
Defendants.

Civil Action

No. 71-C-362 ✓

FILED

JUN 18 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL WITH PREJUDICE

Now on this 14 day of June, 1972, comes on.

for hearing before me the undersigned Judge of the United States District Court for the Northern District of Oklahoma, the stipulation for dismissal with prejudice by Sun Photo Color, Inc., plaintiff, and Crown Drug Centers, Inc., formerly Crown Drug Company, Inc., also known as Crown Drug Company, Oklahoma Photo Supply, Inc., National Photo Corporation and Exel Photo Company, defendants, plaintiff appearing by its attorneys, Boyd & Parks and the defendants appearing by their attorneys, Dyer, Powers & Marsh and Darwin E. Johnson; the Court having examined the files and records in this cause and having heard the statement of counsel, finds:

1. That the plaintiff and the defendant, Crown Drug Centers, Inc., formerly Crown Drug Company, Inc., also known as Crown Drug Company, have fully compromised and settled all claims based upon the subject matter of this cause against the defendant Crown Drug Centers, Inc., and have stipulated and agreed that this cause shall and the same may hereby be dismissed with prejudice to the plaintiff bringing any further action

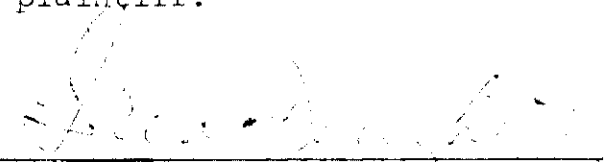
against said defendant based upon the same subject matter at the costs of the plaintiff.

2. That the plaintiff, Sun Photo Color, Inc., and the defendants, Oklahoma Photo Supply, Inc., National Photo Corporation and Exel Photo Company, have stipulated and agreed that the plaintiff's compromise and settlement with the defendant Crown Drug Centers, Inc., formerly Crown Drug Company, Inc., is without prejudice to the plaintiff's right to proceed in this action against said defendants, Oklahoma Photo Supply, Inc., National Photo Corporation and Exel Photo Company, and that plaintiff's compromise and settlement is further without prejudice to the right of the plaintiff, Sun Photo Color, Inc., to dismiss the action in this court and refile an action in the State court or any other forum seeking recovery of damages arising out of the same controversy and further stipulating that all discovery completed to date in this proceeding may be used in this or any subsequent action filed by the plaintiff against the defendants, Oklahoma Photo Supply, Inc., National Photo Corporation and Exel Photo Company.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that this cause is hereby dismissed with prejudice to plaintiff bringing any further action based upon the same subject matter as to the defendant, Crown Drug Centers, Inc., formerly Crown Drug Company, Inc., also known as Crown Drug Company, at the cost of the plaintiff, Sun Photo Color, Inc..

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the dismissal of the defendant Crown Drug Centers, Inc., formerly Crown Drug Company, Inc., is without prejudice

of the plaintiff's right to proceed in this action against the defendants, Oklahoma Photo Supply, Inc., National Photo Corporation and Exel Photo Company, and is further without prejudice to the right of the plaintiff, if it so elects to dismiss the action in this court and refile an action in the State court or any other forum seeking recovery of damages arising out of the same controversy against said defendants, Oklahoma Photo Supply, Inc., National Photo Corporation and Exel Photo Company, and it is further without prejudice to the right of the parties to use all discovery completed to date in this proceeding in any subsequent action filed by the plaintiff against the defendants, Oklahoma Photo Supply, Inc., National Photo Corporation and Exel Photo Company involving the same controversy as if such discovery was completed in any subsequent action which might be filed by said plaintiff.



JUDGE OF THE UNITED STATES DISTRICT
COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JON TIMOTHY ANDERSON, a minor,
by and through his father and
next friend, JAMES D. ANDERSON,
and JAMES D. ANDERSON, individually,

Plaintiffs,

vs.

TARGET STORES, a corporation,

Defendant.

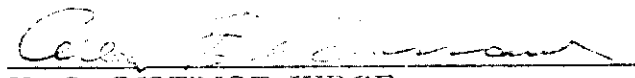
FILED,
JUN 15 1972
JOHN H. POL, Clerk
U. S. DISTRICT COURT

NO. 71-C-323 ✓

ORDER OF DISMISSAL

The Motion of the Plaintiff to dismiss this action since all
issues of law and fact have been settled and the case compromised comes
on this day to be heard and the Court duly advised in the premises.

IT IS HEREBY ORDERED AND DECREED that this case be
dismissed with prejudice to the filing of a further action.


U. S. DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

REID, et al.,
Plaintiffs,

vs.

INTERNATIONAL UNION, UNITED
AUTOMOBILE, AEROSPACE AND
AGRICULTURAL IMPLEMENT WORKERS
OF AMERICA (UAW) LOCAL 1093,

Defendant.

)
)
)
) 67-C-224 ✓
)
)
) FILED
) JUN 14 1972
) JOHN H. POE, Clerk
) U. S. DISTRICT COURT
)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND
JUDGMENT

This cause came on to be considered on the motion of defendant, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) Local 1093 for summary judgment, pursuant to Rule 56 of the Federal Rules of Civil Procedure and the recommendations of the United States Magistrate, to which defendant objected. The Court, having considered the pleadings, affidavits, briefs, memoranda, arguments of counsel (as reflected in the transcript of the proceedings before the United States Magistrate), files in this case, the recommendations of the United States Magistrate, the objections thereto, and due deliberation having been had thereon, the Court now makes its Findings of Fact and Conclusions of Law as follows:

FINDINGS OF FACT

1. Plaintiffs are citizens of the United States, State of Oklahoma, and of this judicial district.

2. Plaintiffs are or have been employed by McDonnell-Douglas Aircraft Company in its Tulsa, Oklahoma plant. McDonnell-Douglas Aircraft Company is an industry affecting interstate commerce.

3. Three of the named plaintiffs are no longer employed by McDonnell-Douglas Aircraft Company in Tulsa, Oklahoma, and, thus, pay no agency shop fees to the Union, to-wit: C. E. Valentine, Norma S. Simpson and Kenneth G. Teel.

4. Four of the named plaintiffs have sent letters requesting the withdrawal of their names as plaintiffs, to-wit: Melva W. Hodges, C. R. Puls, C. W. Ross, and S. Marie Olson.

5. Defendant, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) Local 1093 (hereinafter "Union") is a labor union located in this judicial district. It is a local union of the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) (hereinafter "International Union"); and, with the International Union, is the exclusive bargaining representative for the collective bargaining unit in which plaintiffs are employed.

6. In 1965 and 1968, McDonnell-Douglas Aircraft Company (or its predecessor in interest) and the UAW entered into collective bargaining agreements establishing the wages, hours, and terms and conditions of employment for employees in the bargaining unit at Tulsa, including plaintiffs.

7. Pursuant to Article V of the 1965 agreement, what is commonly known as an "agency shop" existed in this bargaining unit. As a condition of continued employment, employees were required either to be a member of the Union and pay Union dues, or to pay to the Union monthly agency shop fees equivalent in amount to the dues which Union members paid. Article V was continued in the 1968 collective bargaining agreement.

8. Plaintiffs, and each of them, have never been, nor do they wish to become full-fledged members of the Union or the International Union.

9. Since June 26, 1965, each of the plaintiffs has been required, as a condition of employment, to pay agency shop fees, until the agreement of 1971, not at issue in the present litigation, the Court having denied plaintiff's motion for leave to file supplemental complaint. Each of the plaintiffs has paid the required fees, since the Union would cause McDonnell-Douglas Aircraft Company to discharge any employee in the bargaining unit who failed and refused to pay these fees as required by the agreement.

10. In November, 1967, plaintiffs filed this action, alleging that the Union was diverting a portion of their compulsory agency fees to the support of political candidates, political and economic doctrines, ideologies, and legislative programs to which plaintiffs are opposed, and which were not reasonably necessary to collective bargaining. The complaint asks declaratory judgment, monetary damages and injunctive relief. This Court dismissed the action against defendant Union on the ground that the National Labor Relations Board had exclusive jurisdiction. On appeal, the Tenth Circuit Court of Appeals reversed and remanded as to the

Union, holding that, on the record as it then stood, jurisdiction "conceivably" did exist under the unfair representation theory of *Vaca v. Sipes* (1967) 386 U.S. 171.

11. The Union concedes, and this Court finds, that both the defendant Union and the International Union have spent and continue to spend compulsory agency shop fees, along with Union dues money, for the support of candidates for state and local office; and for legislative, educational, citizenship, social and economic objectives of the UAW.

12. The Union concedes that it stands in a fiduciary relationship to plaintiffs, and owes plaintiffs a duty of fair representation.

13. The Union concedes that any employee who does not pay Union dues and who must pay agency shop fees as a condition of retaining employment, and who objects to the use of a portion of his fees along with Union dues by the Union for political candidates, doctrines, and causes with which the employee disagrees, has a right, after specifically informing the Union of his objection, to request and receive a pro-rata rebate.

14. For several years before the instant litigation was filed, Article 16, §6 of the Constitution of the International Union provided that, by yearly notification of the Secretary-Treasurer of the International Union, any member could divert the portion of his dues or fees which was allocated to the Local and International Citizenship Funds into a non-partisan citizenship organization.

15. In May, 1968, the Convention of the International Union replaced the old provision with a new and more extensive section, which provides both the member and the payer of agency shop fees with an intra-union remedy whereby he can receive a pro-rata rebate of that portion of his fees or dues spent for political candidates, doctrines, and causes to which he objects. This section provides as follows:

"Any member shall have the right to object to the expenditure of a portion of his dues money for activities or causes primarily political in nature. The approximate proportion of dues spent for such political purposes shall be determined by a committee of the International Executive Board, which shall be appointed by the President, subject to the approval of said Board. The member may perfect his objection by individually notifying the International Secretary-Treasurer of his objection by registered or certified mail; provided, however, that such objection shall be timely only during the first fourteen (14) days of Union membership and during the fourteen (14) days following each anniversary of Union membership. An objection may be continued from year-to-year by individual notifications given during each annual fourteen (14) day period.

"(b) If an objecting member is dissatisfied with the approximate proportional allocation made by the committee of the International Executive Board, or the disposition of his objection by the International Executive Board and the decision of the International Executive Board shall be appealable to the Public Review Board or the Convention at the option of said member." (Article 16, §6, 1968 Constitution of the International Union)

The identical language is present in the 1970 Constitution of the International Union at Article 16, §7 and is currently in effect.

16. Although the rebate provisions of Article 16 reads "[a]ny member shall have the right ***, Article 6, §20 of the Constitution of the International Union provides:

"Non-members covered by an agency shop clause in a UAW contract shall receive all the material benefits to which members are entitled ***."

17. The UAW's comprehensive rebate procedure is available to and expressly adopted in 1968 for both non-members who pay shop fees under a UAW contract, and full-fledged union members. Thus, the UAW's rebate procedure is available to each of the plaintiffs.

18. To claim a rebate under the UAW's internal procedure each of these plaintiffs must write a certified letter to Emil Mazey, Secretary-Treasurer of the International Union, within fourteen days following the anniversary of the commencement of his agency fee payments.

19. Plaintiffs have had constructive and actual notice of the existence of the rebate procedure.

20. None of the plaintiffs have begun an action or attempted to utilize the available rebate procedure, nor have any of them attempted to exhaust any other appeal procedures available to them under the Constitution of the International Union.

21. At no time since the filing of the instant litigation have any of the named plaintiffs filed a grievance under the McDonnell-Douglas UAW collective bargaining agreement concerning the matters raised in the instant litigation.

22. At no time have any of the plaintiffs complained to either the Union or the International Union concerning the Union's expenditure of funds, except by the filing of pleadings and affidavits in the course of this litigation.

23. There is no record evidence of any complaint or protest concerning the subject matter of this suit by any member of this bargaining unit other than the named plaintiffs.

24. Since the new rebate procedure was established, money has been refunded to dissident individuals on at least 37 occasions.

25. If plaintiffs pursue the rebate procedure, the International Union is prepared to refund not only the pro-rated portion of agency fees and dues money expended for partisan political purposes, but also that pro-rated portion of agency fees and dues money spent for various other doctrines and causes to which plaintiffs object, including, but not limited to: American Civil Liberties Union, NAACP, Citizens Crusade Against Poverty, United Nations, National Urban League, SCLC, Metropolitan Detroit Council of Churches, and National Committee for a SANE Nuclear Policy.

26. The rebate available under the procedure presently available to each of these plaintiffs is not limited to monies spent since the individual made specific objection. The UAW's rebate procedure in Article 16, §7 provides a means by which a dissenter can recover that portion of compulsory monies spent for an unspecified time prior to the objection. Nothing in Article 16, §7 or in the affidavits indicates that the UAW rebate procedure, as it currently exists, may not, if used by plaintiffs, provide each of them with a full pro-rated refund of monies spent before May 1968 for causes, doctrines, and candidates with which plaintiffs disagree. It appears from the affidavits that the UAW could, if plaintiffs invoke the rebate procedure, provide rebates for periods prior to May, 1968, the effective date of the new rebate procedures (Mazey's affidavit of September 17, 1971.)

27. If a dissenter, such as these plaintiffs, pursues the rebate procedure and is dissatisfied with the approximate proportional allocation made by committee of the Executive Board of the International Union, or the disposition of his objection by the Secretary-Treasurer of the International Union, he may appeal directly to the full Executive Board of the International Union.

28. If dissenters, such as these plaintiffs, are dissatisfied with the decision of the full Executive Board of the International Union, that decision may be appealed, at the option of the dissenter, either to the Convention of the International Union, or the Public Review Board.

29. The Public Review Board is a body of seven individuals, established under Article 32 of the Constitution of the International Union.

30. By the terms of Article 32, none of the members of the Public Review Board may work under the jurisdiction of the UAW nor may they be employed by the International Union or any of its subordinate bodies. Although the initial seven members were appointed by the International Union, the Public Review Board is self-perpetuating in that vacancies are filled from a list of names submitted by the remaining members.

31. The present members of the Public Review Board are:

(i) Msgr. George G. Higgins, Chairman, Director of the Division of Urban Life, Department of Social Development, U.S. Catholic Conference;

(ii) Dr. Jean T. McKelvey, New York State School of Industrial and Labor Relations;

(iii) Professor Harry W. Arthur, Associate Dean of Osgood Hall Law School, York University, Ontario, Canada;

(iv) Robben W. Fleming, President of the University of Michigan, Professor of Law, University of Michigan, and well-known arbitrator;

(v) Professor James E. Jones, Jr., University of Wisconsin Law School;

(vi) Professor Frank W. McCulloch, University of Virginia Law School, former Chairman of the National Labor Relations Board; and

(vii) Rabbi Jacob Weinstein, Rabbi Emeritus, K.A.M. Temple of San Francisco.

32. Previous members of the Public Review Board have included:

(i) Judge George E. Bowles of the Wayne County Circuit Court;

(ii) Judge George N. Leighton, Cook County, Illinois;

(iii) Judge Wade H. McCree of the United States Sixth Circuit Court of Appeals;

(iv) the late Rabbi Morris Adler; and

(v) The Rev. Dr. Henry Hitt Crane, former minister of Detroit Central Methodist Church.

33. Under Article 32 §3(b) of the Constitution of the International Union, the Public Review Board has the authority and duty to make final and binding decisions on all cases appealed to it in accordance with the rebate provisions of Article 16.

34. None of plaintiffs have attempted or exhausted the appeals available under the Constitution of the International Union.

35. The provisions of the contract between the Union and McDonnell-Douglas Aircraft Company have been applied uniformly and regularly with respect to all employees covered by that agreement. The plaintiffs have been treated exactly the same as any other person covered by the agreement.

36. The record is devoid of any evidence of bad faith, hostility, arbitrary treatment, fraud, dishonesty or severe and intentional discrimination.

CONCLUSIONS OF LAW

From the foregoing Findings of Fact the Court concludes as follows:

1. This Court has jurisdiction under 29 USC §159(a) and 29 USC §185(a) insofar as plaintiffs allege breach of the Union's duty of fair representation within the meaning of *Vaca v. Sipes* (1967) 386 U.S. 171.

2. Venue is proper under 28 USC §1391(b).

3. Where, as here, an employee seeks to recover from a union that portion of his compulsory agency fees which have been used for political and other causes to which the employee objects, a class action is improper unless each member of the proposed class has (a) specifically objected to the use of his money for the offending causes; and (b) has affirmatively communicated both his objection and his desire for a refund to appropriate union officials. In the absence of such objection and communication,

dissent will not be presumed. *IAM v. Street* (1961) 367 U.S. 740.

4. In the absence of the specific objection and communication required by *Street*, supra, a class action will be inappropriate under Rule 23 of the Federal Rules of Civil Procedure because: (a) it may not be presumed that the claims of the individual plaintiffs are typical [Rule 23(a)(3)], and (b) it may not be presumed that the individual plaintiffs can fairly and adequately protect the interests of the proposed class [Rule 24(a)(4)]. To presume the contrary would risk denying the non-dissenting majority due process of law. *Hansberry v. Lee* (1940) 311 U.S. 32.

5. This suit may not be maintained as a class action consistent with the principles of *Street*, supra, and *Hansberry*, supra, since there is no evidence in the record of any complaint or protest to appropriate Union officials by any member of this bargaining unit other than the named plaintiffs, and, also, since four of the named plaintiffs have indicated in writing that they no longer wish to be plaintiffs in the instant litigation.

6. The claims of the individual plaintiffs are not, and may not be presumed to be typical; nor is there any proof that the individual plaintiffs fairly and adequately represent the interests of the proposed class.

7. This litigation may not be maintained as a class action because it fails to meet the prerequisites of the current Rule 23(a) of the Federal Rules of Civil Procedure.

8. The agency shop provisions of Article V of the 1965 and 1966 collective bargaining agreement between the UAW and McDonnell-Douglas Aircraft Company, or its predecessor, imposed only financial obligations on members of this bargaining unit.

9. The conclusion of 8 above, therefore, make the Union Security provisions of the 1965 and 1968 agreements, as written, lawful, valid and enforceable. *NLRB v. General Motors Corporation*, (1969) 373 U.S. 743.

10. In remanding this case, the Tenth Circuit Court of Appeals, while holding that jurisdiction "conceivably does exist", 443 F.2d 408, 412, nevertheless stated that it did not mean to intimate that the plaintiffs have asserted a meritorious claim", 443 F.2d 408, 412 n. 13.

11. The Tenth Circuit Court of Appeals remanded this case as to the Union because the factual record on appeal was inadequate both on the issue of unfair representation and on the issue of internal union remedies. As is appropriate on a motion for summary judgment under Rule 56, both parties have made significant additions to the factual record, now giving this Court an advantage which the Tenth Circuit Court of Appeals did not have on the original appeal.

12. The pleadings, affidavits, and files in this case show, and this Court concludes, that there is no genuine issue as to any material fact.

13. The Tenth Circuit Court of Appeals found that to sustain an action for breach of the duty of fair representation, "plaintiffs must show the 'union's conduct toward a member of the collective bargaining unit is arbitrary, discriminatory, or in bad faith.'" 443 F.2d 408, 412, n. 13, citing *Vaca v. Sipes* (1967) 386 U.S. 171.

14. Since the Tenth Circuit Court of Appeals decision, the United States Supreme Court has reaffirmed and elaborated the *Vaca*, supra, standard in *Motor Coach Employees v. Lockridge* (1971) 403 U.S. 274. Under *Lockridge*, supra, the complaining party must plead, and be able to prove by substantial evidence, union discrimination that is (a) intentional, (b) severe, and (c) unrelated to legitimate union objectives; and which is also (d) fraudulent, deceitful, dishonest, irrational, arbitrary, invidious, hostile, or otherwise discriminatory.

15. To survive the instant motion for summary judgment, plaintiffs must meet the standards of *Vaca*, supra, and *Lockridge*, supra.

16. Where, as here, defendant has submitted detailed affidavits in support of summary judgment, plaintiffs may not rest on their pleadings, or upon conclusionary and speculative affidavits. Neither reassertion of the allegations of the complaint, nor speculation and conclusion under oath will create any issue of material fact in such circumstances.

17. Under the standard of *Vaca*, supra, and *Lockridge*, supra, summary judgment is proper in the instant litigation because, under the facts, there is no meritorious claim of unfair representation.

18. *IAM v. Street* (1961) 367 U.S. 740, 773-5, and *Brotherhood v. Allen* (1963) 373 U.S. 113, both indicate a desire on the part of the United States Supreme Court to protect political activities traditionally conducted by labor organizations. As was also recognized in the recent case of *Marker v. Connally* (DC DC, 1972) 337 F.Supp, 1301, 1304, a restraint on expenditures for political activities by labor organizations might well be offensive to the First Amendment.

19. Under *Street*, *supra*, and *Allen*, *supra*, any employee who must pay compulsory agency shop fees or dues, and who specifically objects to the use of a portion of his fees or dues by the union for political candidates, doctrines, and causes with which the employee disagrees, has a right, after specifically informing the union of his objection, to request and receive a pro-rata rebate.

20. A dissident is entitled to no more than a pro-rata rebate. He is not entitled to request a rebate on behalf of others who have not made their objections specifically known to the Union. Nor is he entitled to otherwise interfere with the traditional, lawful political activities of the union or with a lawful union security provision of a collective bargaining agreement.

21. When the Tenth Circuit Court of Appeals remanded this case, it remarked that the record was too incomplete to reach a decision on the following issues:

(i) the existence of an internal UAW remedy, particularly with respect to the rebate provisions;

(ii) the availability of such a remedy to plaintiffs; and

(iii) whether or not plaintiffs had attempted to exhaust internal union remedies.

In addition, the Court of Appeals for the Tenth Circuit expressed doubts as to whether the UAW rebate procedure was properly before the Court.

22. Since the Tenth Circuit Court of Appeals remanded this case, the Union has introduced appropriate proofs as to the existence, nature and adequacy of internal union remedies, and in particular the rebate remedies available to each of these plaintiffs. The record on the issue of internal union remedies is now complete, and properly before this Court.

23. The Constitution of the International Union provides an adequate, fair, and reasonable procedure which is available to each of these plaintiffs, whereby each can receive the entire pro-rata rebate to which he is entitled under Street, supra, and Allen, supra.

24. In the event a dissident is unhappy with the decision of the International Union, said dissident has a right of appeal to an independent body, heretofore discussed in the Findings of Fact.

25. Plaintiffs have speculated, both under oath and in argument, that the rebate procedure is inherently unfair and unreasonable because it is in the control of the UAW or its appointees. Plaintiffs' speculative conclusions, however, create no genuine issue of material fact on this point in view of the Union's detailed affidavits showing the existence, simplicity, effectiveness, and nature of the procedure, as well as the

character of the members of the Public Review Board.

26. The Court concludes that it is the policy of the United States Supreme Court to foster internal union remedies, such as the UAW rebate provisions, as a "more practical alternative to litigation for the vindication of the rights and the accommodation of interests here involved". *Brotherhood v. Allen* (1963) 373 U.S. at 122-4. This policy finds additional voice in statute, e.g. 29 USC §411(a)(4).

27. Plaintiffs speculate that the rebate procedures will not, if attempted, prove available to non-members such as plaintiffs. Plaintiffs' speculative conclusions, however, create no genuine issue of material fact on this point in view of the Union's detailed affidavits showing the contrary by reference to the legislative history of the rebate provisions; another article of the Constitution of the International Union which guarantees non-member agency shop fee payers all the material rights of a union member; and the sworn statement of the International Union of their willingness to entertain rebate demands from these plaintiffs if they follow the rebate procedure.

28. Plaintiffs speculate that the rebate procedures, if attempted will not provide pro-rata refunds for that portion of agency shop fees spent for all of the various doctrines and causes to which plaintiffs object. Plaintiffs' speculative conclusions create no genuine issue of material fact in view of the Union's affidavits showing that, if the rebate procedure is followed, the UAW is ready to provide pro-rated rebates for monies spent on a range of causes and doctrines, many of which are not of a partisan political nature; and that the rebate provision in the Constitution of the International Union does not restrict rebates as plaintiffs fear.

29. Plaintiffs speculate that the current rebate procedures, if attempted, will not provide pro-rated refunds for that portion of agency shop fees spent before May, 1968, when the new rebate procedure was enacted, for causes, doctrines, and candidates with which plaintiffs disagree. Plaintiffs' speculative conclusions create no genuine issue of material fact in the face of the Union's showing that the current UAW rebate procedure is sufficiently broad to allow a dissenter to recover that portion of compulsory monies spent for an unspecified time prior to the objection, including dates prior to May, 1968, when the new rebate provisions were enacted; and in view of the Union's affidavit showing that the UAW could, if plaintiffs invoke the current rebate procedure, provide rebates for periods prior to May, 1968.

30. The requirement in the rebate provision that dissenters claim their rebates within 14 days following the anniversary of the commencement of their compulsory union support payments is reasonable. Given the large membership of the International Union, such a provision is, no doubt, necessary in order to distribute the claims over the calendar year and make effective administration possible. Because a dissenter may receive a retroactive rebate under the provisions of Article 16, §7, he need not lose any monies rightfully due him. A labor union has a right to enact reasonable procedural rules to facilitate effective administration.

31. Following the United States Supreme Court's suggestion in Allen, supra, the UAW has adopted an internal rebate procedure which is reasonable, fair, and available to each of these plaintiffs, and adequate enough to provide each plaintiff with the relief to which he is entitled under Street, supra, and Allen, supra.

None of the plaintiffs has seen fit to attempt to use this rebate procedure. They allege that the principles of Street, supra and Allen, supra, have been violated by the mere fact that the Union uses a portion of their compulsory fees for political purposes, and would have this Court presume that the UAW rebate procedure is legally inadequate without having attempted to utilize the designated procedure.

32. Under Street, supra, and Allen, supra, no legal wrong has been done plaintiffs until they have been refused an adequate rebate by the Union. Only the refusal of the Union to make an adequate rebate to each plaintiff can be legally challenged in an action based on Street, supra, and Allen, supra. There is no showing by plaintiffs that they have attempted to or exhausted the UAW rebate procedure, and they have advanced no legally adequate excuse for this failure.

33. In Allen, supra, the Supreme Court indicated that a union is entitled, and in fact encouraged, to establish internal procedures whereby dissidents could get these rebates; the implication being that, where such reasonable and adequate procedures exist, a union cannot be said to have refused to give an adequate rebate until the internal procedure has been tried, exhausted, and found inadequate.

34. The Court finds the defendant Union's motion for summary judgment must be granted as a matter of law; there being no genuine issue of material fact. This cause, then, does not present a justiciable case or controversy. To arrive at any other conclusion would allow dissidents to avoid reasonable and adequate internal procedures by conclusionary pleading and speculative affidavits; would make the establishment of such procedures futile; and would run contrary to the clear policy of the Allen, supra, case. There can be no legal wrong until an adequate rebate has been refused, and there can be no refusal until the UAW rebate procedure is found inadequate. Thus, plaintiffs' claim of a legal wrong under Street, supra, and Allen, supra, is not properly before this Court until plaintiffs have used the rebate procedure and found it wanting.

35. Federal labor law recognizes a strong policy in favor of resolving disputes, particularly disputes between a union and those it represents, by initial resort to reasonable internal union remedies. This policy is particularly appropriate in this type of case, in view of the Supreme Court's ruling in Allen, supra; that this is the type of controversy which the Courts should refrain from entertaining when it discovers that the union adopted a "plan by which dissenters could be afforded an internal union remedy."

36. Exceptions to this policy exist where an available internal remedy would be utterly futile, or otherwise obviously worthless. The Court will not presume futility on the strength of plaintiffs' conclusory speculations; where plaintiffs have not availed themselves of the internal remedies.

37. Plaintiffs have failed to begin or to exhaust the grievance procedure available under the UAW-McDonnell Douglas collective bargaining agreement.

JUDGMENT

IT IS ORDERED that Summary Judgment be entered, based on the above Findings of Fact and Conclusions of Law, in favor of the defendant Union, and against the plaintiffs herein, and each of them. Defendant Union is awarded costs, but no attorney fees.

ENTERED this 14th day of June, 1972.

Allen E. Barron

CHIEF UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

BOARD OF TRUSTEES, PIPELINE INDUSTRY)
BENEFIT FUND,)

vs.)

Plaintiff,)

No. 72-C-118 ✓

WONDERLY CONSTRUCTION COMPANY,)

Defendant.)

FILED

JUN 13 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

ENTRY OF JUDGMENT BY DEFAULT

The Complaint and Summons in the above entitled action having been filed in this Court on the 6th day of April, 1972 and service of the same duly executed upon the designated and acting service agent of the defendant on the 7th day of April, 1972 and by certified mail to the Wonderly Construction Company, 2694 Lime Avenue, Long Beach, California 90806.

The Court finds that the defendant is in default and has failed to file any answer or other response pertaining to the complaint herein and that said matter has been set upon the court's disposition docket this 13th day of June, 1972.

The Court further finds that the defendant is indebted to the plaintiff as set out in the complaint herein and that in addition, the plaintiff has been compelled to employ counsel to collect the same and is entitled to allowance and judgment for attorney fees in the amount of \$200.00 plus court costs herein expended.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that judgment be entered in favor of the plaintiff, Board of Trustees, Pipeline Industry Benefit Fund, and against the defendant, Wonderly Construction Company, in the sum of \$338.34 including attorney fees plus court costs in the amount of \$19.35, representing filing fees and certified mailing.

Done at Tulsa, Oklahoma this 13th day of June, 1972.


ALLEN E. BARROW, DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

BOARD OF TRUSTEES, PIPELINE INDUSTRY)
BENEFIT FUND,)

vs.)

Plaintiff,)

No. 72-C-149 ✓

D & D PIPELINE COMPANY, INC.,)

Defendant.)

FILED

JUN 13 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

ENTRY OF JUDGMENT BY DEFAULT

THE Complaint and Summons in the above entitled action having been filed in this Court on the 28th day of April, 1972, and service of the same duly executed upon the designated and acting service agent of the defendant on the 1st day of May, 1972, and by certified mail to the D & D Pipeline Company, Inc., P. O. Box 288, Bald Knob, Arkansas 72010.

The Court finds that the defendant is in default and has failed to file any answer or other response pertaining to the complaint herein and that said matter has been set upon the court's disposition docket this 13th day of June, 1972.

The Court further finds that the defendant is indebted to the plaintiff as set out in the complaint herein and that in addition, the plaintiff has been compelled to employ counsel to collect the same and is entitled to allowance and judgment for attorney fees in the amount of \$500.00 plus court costs herein expended.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that judgment be entered in favor of the plaintiff, Board of Trustees, Pipeline Industry Benefit Fund, and against the defendant, D & D pipeline Company, Inc., in the sum of \$2,642.32, plus attorney fees in the amount of \$500.00 and court costs in the amount of \$19.35 representing filing fees and certified mailing.

Done at Tulsa, Oklahoma this 13th day of June, 1972.


ALLEN E. BARROW, DISTRICT JUDGE

LESLIE JOHN KLAS,

VS.

Defendant.

71-C-369

[illegible]

This matter coming on for hearing on disposition docket
this 13th day of June, 1972, the Court finds:

That the complaint was filed and summons issued on October 15, 1971. Summons was not served. No further effort appears to have been made to obtain service.

When this case was called on the disposition docket this dated neither Leslie John Kias or his attorney, Terry L. Meltzer, or the defendant, C. M. Crawford were present.

IT IS, THEREFORE, ORDERED that the complaint and cause of
action be and the same are hereby dismissed for failure to prosecute.

ENTERED this 13th day of June, 1972.

CHIEF UNITED STATES DISTRICT JUDGE

LOLA ADAMS,
Plaintiff,
vs.
C. M. CRAWFORD,
Defendant.

71-C-370

FILED

APR 1968

U.S. DISTRICT COURT

This matter coming on for hearing on disposition docket
this 13th day of June, 1972, the Court finds:

When this case was called on the disposition docket this date neither Lola Adams or her attorney, Terry L. Meltzer or the defendant, C. M. Crawford were present.

ENTERED this 13th day of June, 1972.

CHIEF UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
JUN 13 1972
JOHN H. POE, Clerk
U. S. DISTRICT COURT

THE ATCHISON, TOPEKA AND SANTA FE)
RAILWAY COMPANY, a Delaware cor-)
poration)
Plaintiff)
VS.)
STILLWATER MILLING COMPANY, an Okla-)
homa corporation)
Defendant)

CASE NO. 71-C-390 ✓

J U D G M E N T

NOW, on this 7th day of June, 1972, upon application of the parties, the Court enters judgment in favor of the plaintiff, The Atchison, Topeka and Santa Fe Railway Company, and against the defendant, Stillwater Milling Company, for the sum of Fifteen Thousand (\$15,000.00) Dollars.

Said judgment shall operate to resolve all issues by and between the parties hereto relating to claims for damages which have been or could have been asserted by either party in this action.

This judgment and the release thereof is binding in this action only and shall have no legal effect and shall not be referred to by either party in any other litigation now pending or which may be instituted in the future.

Upon payment of \$15,000.00 by defendant to plaintiff, no further costs will be taxed in this cause.


United States District Judge

APPROVED:

Rainey, Welch, Wallace, Ross & Cooper

By 
Attorneys for Plaintiff

Best, Sharp, Thomas & Glass

By 
Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

REVA PULLIN,

Plaintiff,

vs.

ZEBCO,

Defendant.

)
)
)
) 71-C-398
)
)
)
)

FILED
JUN 14 1972
J. S. DISTRICT COURT

ORDER DISMISSING

Heretofore and on May 25, 1972, the Court allowed Ben G. Price to withdraw as counsel of record for plaintiff, and entered its order directing plaintiff to obtain counsel within 15 days, failing which the complaint and cause of action would be dismissed.

The 15 day period has now expired and plaintiff has not complied with the order of the Court and this complaint and cause of action should now be dismissed for failure to prosecute.

IT IS, THEREFORE, ORDERED that the complaint and cause of action be and the same are hereby dismissed for failure to prosecute.

ENTERED this 15 day of _____, 1972.

CHIEF UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

TEXACO INC., a corporation,
Plaintiff,

vs.

ROBERT P. LAMMERTS,
Defendant.

NO. 71C-418

FILED

JUN 13 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

ORDER DISMISSING ACTION

It is ordered that this action be dismissed with
prejudice upon Motion of Plaintiff.



United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

Copperhead Manufacturing Co.,)
)
Plaintiff,)
)
vs.)
)
Kennametal Inc.,)
)
Defendant.)

No. 72-C-29

ORDER

On this 13 day of June, 1972, there comes on for hearing the Application of the defendant, Kennametal Inc., for an Order dismissing plaintiff's Complaint and Cause of Action; and the Court, being fully advised in the premises, finds that said motion should be sustained.

It is Ordered, Adjudged and Decreed that plaintiff's Complaint and Cause of Action be and hereby are dismissed.


United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

COLEMAN LOTT,
Petitioner,
v.
STATE OF OKLAHOMA,
Respondent.

72-C-191 ✓

FILED

JUN 13 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

O R D E R

THE COURT, having examined the petition for writ of habeas corpus filed herein by the clerk and being fully advised in the premises, finds that it does not appear that the applicant has exhausted the remedies available in the courts of the State of Oklahoma, or that there is either an absence of available state corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the prisoner. 22 U.S.C.A. § 2254. Although the petitioner did pursue an unsuccessful direct appeal from the state judgment of conviction, he has chosen to ignore the state post-conviction remedy provided by 22 O.S.A. § 1080 et seq. The institution of a post-conviction action in the state sentencing court is a prerequisite to the granting of habeas relief in this court. See Brown v. Crouse, 395 F.2d 755 (CA 10 1968); Omo v. Crouse, 395 F.2d 757 (CA 10 1968).

IT IS THEREFORE ORDERED:

1. The case is dismissed;
2. That a copy of this order be mailed by the clerk of this court to the petitioner;
3. That a copy of this order be mailed by the clerk to the respondent, by mailing the same to the Attorney General of the State of Oklahoma.

DATED THIS 12 DAY OF JUNE, 1972.

Luther H. Brown
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JAMES E. BRADSHAW and
L. R. LATCH,

Plaintiffs,

vs.

THE TOWN OF SKIATOOK,
OKLAHOMA, a Municipal Corporation,

Defendant.

No. 71-C-292

FILED

JUN 13 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

JOURNAL ENTRY OF JUDGMENT

On May 4, 1972, this case came on for trial before the Honorable Fred Daugherty, one of the judges of the District Court for the Northern District of Oklahoma, having been previously set for trial on this date. The plaintiffs appeared in person and by Mr. Louis Levy, their attorney, and the defendant, The Town of Skiatook, appeared by all members of its Board of Trustees and Mr. Jay C. Baker and James N. Khourie. Both parties having previously waived trial by jury, both plaintiff and defendant announced ready for trial whereupon the evidence of the parties was presented and considered by the court, and the court having been fully advised in the premises finds in accordance with the facts set forth in a memorandum opinion filed herein on May 11, 1972, and incorporates in this Journal Entry of Judgment all findings of fact and conclusions of law set forth in such memorandum opinion.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the complaint of the plaintiffs be and the same is hereby dismissed at the cost of plaintiffs.

Fred Daugherty
Fred Daugherty, Judge

Louis Levy
Louis Levy, Attorney for plaintiffs

Jay C. Baker
Jay C. Baker, attorney for defendant

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN

DISTRICT OF OKLAHOMA

COMMERCIAL CREDIT EQUIPMENT)
CORP., a corporation,)

Plaintiff,)

vs.)

JAMES F. FREEMAN,)

Defendant.)

No. 72-C-114 ✓

FILED

JUN 12 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

D I S M I S S A L

Comes now the plaintiff, Commercial Credit Equipment Corporation, a corporation, and dismisses this action without prejudice to a future action.

McCLELLAND, COLLINS, SHEEHAN,
BAILEY & BAILEY

By: _____
Richard R. Bailey
Attorneys for Plaintiff
600 Hightower Building
Oklahoma City, Oklahoma 73102

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

6-9-72

ROBERT FRANDEN, Trustee,
et al.,

Plaintiff,

vs.

TRUCK INSURANCE EXCHANGE,

Defendant.

71-C-360 ✓

FILED

JUN 9 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL

The parties having announced in open Court that they
have compromised and settled the issues involved in this litigation,

IT IS, THEREFORE, ORDERED that the complaint and cause of
action be and the same is hereby dismissed with prejudice.

Allen L. Zarnett
CHIEF UNITED STATES DISTRICT JUDGE

Ray H. Williams

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
) Plaintiff,)
)
-v-)
)
)
Vernice Morgan aka Vernin Morgan,)
et al.,)
)
) Defendants.)

CIVIL NO: 72-C-72

FILED

JUN 9 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 7 day
of June, 1972, the plaintiff appearing by Robert P. Santee,
Assistant United States Attorney, and the defendants, Vernice
Morgan aka Vernin Morgan, Shirley Morgan, J. D. Stringfellow
dba J. D.'s Auto Repair, appearing not.

The Court being fully advised and having examined
the file herein finds that Vernice Morgan aka Vernin Morgan and
Shirley Morgan were served by publication as shown on
Proof of Publication filed herein; that J. D. Stringfellow dba
J. D.'s Auto Repair was served with complaint and summons on
March 6, 1972.

It appearing that the said defendants have failed
to answer herein and that default has been entered by the Clerk
of this Court.

The Court further finds that this is a suit based
upon a mortgage note and foreclosure on a real property mortgage
securing said mortgage note and that the following described
real property is located in Tulsa County, Oklahoma, within
the Northern Judicial District of Oklahoma:

Lot Twenty (20), Block Four (4), LYNNWOOD
ADDITION, a subdivision to the City of Tulsa,
Tulsa County, State of Oklahoma, according
to the recorded plat thereof.

THAT the defendants, Vernice Morgan aka Vernin Morgan and
Shirley Morgan, did on October 20, 1969, execute and deliver
to Glenn Justice Mortgage Company, Inc. their mortgage and
mortgage note in the sum of \$9,400 with 7½ per cent interest per annum,

and further providing for the payment of monthly installments of principal and interest; and

The Court further finds that the defendants, Vernice Morgan aka Vernin Morgan and Shirley Morgan, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 13 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$9,242.32 as unpaid principal, with interest thereon at the rate of 7½ per cent interest per annum from December 3, 1971, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Vernice Morgan aka Vernin Morgan and Shirley Morgan, for the sum of \$9,242.32 with interest thereon at the rate of 7½ per cent per annum from December 3, 1971, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff by taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the real property and apply the proceeds thereof in satisfaction of plaintiff's judgment. The residue, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the defendants and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.

L. R. a. Daugherty
UNITED STATES DISTRICT JUDGE

Approved.

Robert P. Santee

ROBERT P. SANTEE
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

TED MURRAY, an individual,

Plaintiff,

vs.

BARNES BROKERAGE COMPANY,
INC., a corporation,

Defendant.

No. 70-C-306

FILED

JUN 8 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL WITH PREJUDICE

The above entitled cause having been fully settled and compromised by the parties hereto, and the sum of Three Thousand Dollars (\$3,000.00), the consideration for settlement of the claim set forth in the Complaint herein, having been fully paid, receipt of which is acknowledged, the plaintiff hereby dismisses the above entitled cause with prejudice to the institution of any action or proceeding before any court or tribunal for the recovery of any claims, losses, or damages arising out of or in any manner connected with any of the matters set forth in the complaint on file herein, and the above entitled court is requested to enter this dismissal of record, each party to assume and pay his own costs.

Dated this 6th day of June, 1972.

Norman R. Haskell
Norman R. Haskell, Attorney for plaintiff

So Ordered:

United States District Judge
United States District Judge

United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

Irene Wilson and A.V. Wilson

CIVIL ACTION FILE NO.

71-C-210 and
71-C-235
Consolidated

vs.

Byron Jackson Pump Company,
a Division of Borg-Warner Corp.,
a foreign Corporation**JUDGMENT**

This action came on for trial before the Court and a jury, Honorable Allen E. Barrow,
, United States District Judge, presiding, and the issues having been duly tried and
the jury having duly rendered its verdict, for the defendant Byron Jackson Pump Co,
It is Ordered and Adjudged that the plaintiff A.V. Wilson take nothing,
that the action is dismissed on the merits, and that the defendant re-
cover of the plaintiff A.V. Wilson their costs of actions.

FILED
JUN 7 1972
JOHN H. POE, Clerk
U. S. DISTRICT COURT

Dated at Tulsa, Oklahoma
of June , 19 72

, this 7th day

JOHN H. POE

Clerk of Court

By: Daniel Hammer
Deputy

United States District CourtFOR THE
NORTHERN DISTRICT OF OKLAHOMA

Irene Wilson and A.V. Wilson

CIVIL ACTION FILE NO. 71-C-210 and
71-C-235
Consolidated

vs.

JUDGMENTByron Jackson Pump Company,
a Division of Borg-Warner Corp.,
a foreign corporation

This action came on for trial before the Court and a jury, Honorable Allen E. Barrow
, United States District Judge, presiding, and the issues having been duly tried and
the jury having duly rendered its verdict, for the defendant Byron Jackson Pump Co.,
It is Ordered and Adjudged that the plaintiff Irene Wilson take nothing,
that the action is dismissed on the merits, and that the defendant re-
covers of the plaintiff Irene Wilson their costs of action.

FILED
JUN 7 1972
JOHN H. POE, Clerk
U. S. DISTRICT COURT

Dated at Tulsa, Oklahoma, this 7th day
of June, 19 72.

JOHN H. POE

Clerk of Court

By Murray Thomas
Deputy

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

LEE O. GOODWIN,)
Plaintiff,)
v.)
HONORABLE HEZ BUSSEY,)
HONORABLE TOM BRETT,)
HONORABLE KIRKSEY NIX, SR.,)
Court of Criminal Appeals,)
State of Oklahoma;)
ANDY PAYNE, Clerk of the)
Supreme Court of Oklahoma)
and Court of Criminal Appeals;)
and STATE OF OKLAHOMA,)
Defendants.)

12-1-12/1-12
FILED

JUN - 7 1972 *fm*

JOHN H. POE, Clerk
U. S. DISTRICT COURT

O R D E R

THE COURT, having examined the complaint herein,
together with the brief in support thereof, finds the plaintiff
has failed to allege a basis for equitable relief. See Tyler
v. Russell, 410 F.2d 490 (CA 10 1969). Nor can the court treat
it as a petition for writ of habeas corpus because the peti-
tioner has not exhausted his state remedies 28 U.S.C.A. § 2254.

ACCORDINGLY, IT IS ORDERED that this cause be and
the same is dismissed.

DATED THIS 6th DAY OF JUNE, 1972.

Arthur Robinson
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

SAMMIE L. JOHNSON,

Plaintiff,

vs.

ELLIOT L. RICHARDSON, Secretary of
Health, Education, and Welfare,

Defendant.)

CIVIL ACTION NO. 71-C-223

FILED

JUN - 6 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

ORDER

After reviewing the file and record in this cause, the recommendation of the Magistrate is hereby approved, and

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the defendant's motion for summary judgment be and the same is hereby sustained.

The Clerk of the Court shall forward by mail a copy of this Order to each of the attorneys for the above named plaintiff and defendant.

Dated this 6th day of June, 1972.

/s/ Allen E. Barrow
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

ERNEST GILFORD,)
)
Plaintiff,)
)
vs.)
)
C. J. COMPANYS, INCORPORATED,)
a corporation; and BOB JEFFERY)
COMPANY, INCORPORATED, a cor-)
poration,)
)
Defendant.)

72-C-4 ✓

FILED
JUN - 6 1972 *hm*
JOHN H. POE, Clerk
U. S. DISTRICT COURT

ORDER

After reviewing the file and record in this cause, the recommendation of the Magistrate is hereby approved, and

IT IS, THEREFORE, ORDERED that the Defendants' Motion to Dismiss be and the same is hereby sustained.

The Clerk of the Court shall forward by mail a copy of this Order to each of the attorneys for the above named plaintiff and defendants.

Dated this 6th day of June, 1972.

Allen E. Barron
CHIEF UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

OWASSO PUBLIC SCHOOLS, OWASSO, OKLAHOMA,)
and MFA INSURANCE COMPANY, a Foreign)
Insurance Corporation,)

Complainants,)

vs.)

UNITED STATES OF AMERICA,)

Defendant.)

CIVIL ACTION NO. 72-C-100

FILED

JUN 6 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

ORDER APPROVING COMPROMISE SETTLEMENT

The stipulation of the parties to the above action dated the
6th day of May, 1972, wherein it is agreed by the defendant, United
States of America, to pay to the plaintiffs, Owasso Public Schools and MFA
Insurance Company, the sum of \$3,000.00 without admission of liability or
fault on the part of said defendant and wherein the plaintiffs agree to
accept said sum in full and complete satisfaction of all claims and demands
arising out of the incident giving rise to this litigation, is hereby approved
pursuant to the provisions of 28 U.S.C., 2677, and,

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED THAT this action
be dismissed with prejudice and without costs upon payment to the plaintiffs
by the defendant of the amount stated and,

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that attorney's fees
charged by plaintiffs' counsel are not to be in excess of those allowed by
28 U.S.C., Section 2678, and such fees are to be paid out of and not in
addition to the settlement amount to be paid to plaintiffs.


UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

NORMAN NEW RIDER, a Minor, by his)
Mother and Next Friend, WILMA)
WILLIAMS, et al.,)
)
Plaintiffs,)
vs.)
)
BOARD OF EDUCATION OF INDEPENDENT)
SCHOOL DISTRICT NO. 1, Pawnee)
County, Oklahoma, et al.,)
)
Defendants.)

No. 72-C-146 ✓

FILED

JUN - 6 1972 *John H. Poe*
JOHN H. POE, Clerk
U. S. DISTRICT COURT

O R D E R

The Court has heretofore heard in this case the testimony of plaintiffs and defendants and the argument of counsel. The Court has also carefully considered the pleadings and briefs submitted by the parties. After hearing, the Court entered a Temporary Injunction, and by agreement of the parties was continued in effect until June 5, 1972.

The case comes on for consideration by the Court upon Motion for Permanent Injunction, and the Court again having considered the files and evidence in this cause, is of the opinion that this case presents no substantial Constitutional question cognizant in the Federal Courts. Plaintiffs should seek any remedy they desire in the State Court, this being strictly a local question and of local concern.

This case should, therefore, be dismissed, and

IT IS SO ORDERED.

Dated this 5 day of June, 1972.

Luther Bohannon
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

ICEE OF OKLAHOMA, INC.,)
et al,)
)
Plaintiffs,)
)
vs.)
)
JOHN E. MITCHELL COMPANY,)
et al,)
)
Defendants.)

72-C-68 ✓

E I L E D

JUN - 6 1972 *hm*

JOHN H. POE, Clerk
U. S. DISTRICT COURT

ORDER

After reviewing the file and record in this cause, the recommendations of the Magistrate are hereby approved, and

IT IS, THEREFORE, ORDERED that the Motion to Dismiss and to Strike by Defendants John E. Mitchell Co. and Iceequip Corporation be and the same is hereby denied as to the motion to dismiss and the same is hereby sustained as to the motion to strike and plaintiffs are given 15 days within which to amend complaint.

IT IS FURTHER ORDERED that the Motion of Defendant, Harry's Fountain Supply Company to Dismiss be and the same is hereby sustained, and that the plaintiffs' action and all of their claims be dismissed as against the defendant, Harry's Fountain Supply Company, without prejudice to other action upon the same cause and counts brought in a court of appropriate venue and jurisdiction.

The Clerk of the Court shall forward by mail a copy of this Order to each of the attorneys for the above named plaintiffs and defendants.

Dated this 6th day of June, 1972.

Cullen E. Benson
CHIEF UNITED STATES DISTRICT JUDGE

FILED

JUN - 5 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)	
)	
Plaintiff,)	
)	CIVIL NO: 72-C-73
-v-)	
)	
Ray M. Stanley, et al.,)	
)	
)	
)	
Defendants.)	

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 2nd day of June, 1972, the plaintiff appearing by Robert P. Santee, Assistant United States Attorney, and the defendants, Ray M. Stanley, Martha Joy Stanley, Bill Silver, Frances E. Silver, Versa Louise Olten, Milton Wray Edmonson, Beatrice Faye Edmonson, appearing not.

The Court being fully advised and having examined the file herein finds that Versa Louise Olten, Milton Wray Edmonson, Beatrice Faye Edmonson were served by publication as shown on Proof of Publication filed herein; Ray M. Stanley, Marth Joy Stanley, Bill Silver and Frances E. Silver were served on March 10, 1972.

It appearing that the said defendants have failed to answer herein and that default has been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a mortgage note and foreclosure on a real property mortgage securing said mortgage note and that the following described real property is located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Thirty-eight (38). Block Forty-five (45),
Valley View Acres Second Addition to the City
of Tulsa, Tulsa County, Oklahoma, according to
the recorded plat thereof.

THAT the defendants, Ray M. Stanley and Martha Joy Stanley, did, on December 10, 1962, execute and deliver

to Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$10,500 with 5½ per cent interest per annum, and further providing for the payment of monthly installments of principal and interest; and

The Court further finds that the defendants, Ray M. Stanley and Martha Joy Stanley, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$9,340.29 as unpaid principal, with interest thereon at the rate of 5½ per cent interest per annum from December 1, 1970, until paid, plus the cost of this action accrued and accruing.

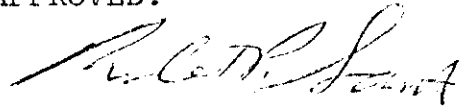
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Ray M. Stanley and Martha Joy Stanley, for the sum of \$9,340.29 with interest thereon at the rate of 5½ per cent per annum from December 1, 1970, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff by taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the real property and apply the proceeds thereof in satisfaction of plaintiff's judgment. The residue, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the defendants and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.


United States District Judge

APPROVED.


ROBERT P. SANTEE
Assistant United States Attorney

FILED

JUN - 5 1972

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JOHN H. POE, Clerk
U. S. DISTRICT COURT

United States of America,)
)
Plaintiff,) CIVIL NO: 72-C-75
-v-)
)
Leon Lewis Hurst, et al.,)
)
)
)
Defendants.)

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 2nd day of June, 1972, the plaintiff appearing by Robert P. Santee, Assistant United States Attorney, and the defendants, Leon Lewis Hurst, Linda Lee Hurst, Johnnie Lee Burns aka Johnnie L. Burnes aka John Burns, Virginia Burns, Ray Harper and Ruby Devault dba Devault and Harper Company, Mary Ada Burns, Termplan of East Pine, Inc., and the State of Oklahoma ex rel Department of Highways, appearing not.

The Court being fully advised and having examined the file herein finds that Leon Lewis Hurst and Linda Lee Hurst were served with complaint and summons on March 13, 1972; that Johnnie Lee Burns and Virginia Burns were served by publication as shown on Proof of Publication filed herein; that Ray Harper and Ruby Devault dba as Devault and Harper Company were served with complaint and summons on March 6, 1972; that Mary Ada Burns was served with Complaint and Summons on March 14, 1972; that Termplan of East Pine, Inc. was served with complaint and summons on March 13, 1972; that Allied Plumbing Company of Tulsa, Inc. and State of Oklahoma ex rel Department of Highways were served with complaint and summons on March 6, 1972.

It appearing that the said defendants have failed to answer herein and that default has been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a mortgage note and foreclosure on a real property mortgage securing said mortgage note and that the following described real property is located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Twenty-eight (28), Block Four (4), VALLEY VIEW ACRES ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

THAT the defendants, Leon Lewis Hurst and Linda Lee Hurst, did, on September 3, 1963, execute and deliver to Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$9,300 with 5½ per cent interest per annum, and further providing for the payment of monthly installments of principal and interest; and

The Court further finds that the defendants, Leon Lewis Hurst, Linda Lee Hurst, Johnnie Lee Burns aka Johnnie L. Burnes aka John Burns, and Virginia Burns, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 13 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$8,354.32 as unpaid principal, with interest thereon at the rate of 5½ per cent interest per annum from January 1, 1971, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Leon Lewis Hurst, Linda Lee Hurst, Johnnie Lee Burns aka Johnnie L. Burnes aka John Burns, and Virginia Burns, for the sum of

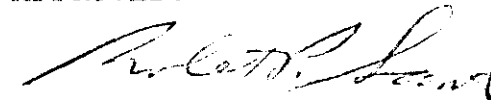
\$8,354.32 with interest thereon at the rate of 5½ per cent per annum from January 1, 1971, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the real property and apply the proceeds thereof in satisfaction of plaintiff's judgment. The residue, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the defendants and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.


United States District Judge

APPROVED.


ROBERT P. SANTEE
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

ARTHUR HOWARD WILLIAMS,
individually, and as husband of
EVALYN WILLIAMS, and EVALYN
WILLIAMS, Individually,

Plaintiffs,

vs.

WILLIAM JOSEPH WILSON and
R. L. HILDEBRAND ENTERPRISES,
INC., a Michigan corporation,

Defendants.

No. 71-C-171 ✓

FILED

JUN - 5 1972 *hm*

JOHN H. POE, Clerk
U. S. DISTRICT COURT

STIPULATION OF DISMISSAL WITH PREJUDICE

Come now the plaintiffs, through their attorney, H.
Corky Bishop, and stipulate that the above captioned cause of
action be dismissed with prejudice to filing a future action herein.

H. Corky Bishop
Attorney for Plaintiffs

Joseph M. West
Attorney for Defendant Wilson

James L. Hildebrand
Attorney for Defendant R. L.
Hildebrand, Inc.

ORDER

And now on this 2nd day of ~~May~~ ^{June}, 1972, there came on for
consideration before the undersigned Judge of the United States
District Court for the Northern District of Oklahoma, stipulation
of the parties hereto of dismissal, parties hereto having advised
the Court that all disputes between the parties have been settled.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the
above styled cause be and the same is hereby dismissed with prejudice
to the right of the plaintiffs to bring any future action arising
from said cause of action.

Luther Bohannon
JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JAMES DOW VANDIVERE,

Petitioner,

vs.

COUNTY OF TULSA,
STATE OF OKLAHOMA,

Respondents.

Case No. 72-C-167 Civil

FILED
JUN 2 1972
JOHN H. POE, Clerk
U. S. DISTRICT COURT

O R D E R

The Petition For Writ Of Habeas Corpus filed in this Court by the above Petitioner, a prisoner of the State of Oklahoma, is dismissed, Petitioner not having exhausted the remedies available to him in the Courts of the State of Oklahoma. Petitioner's claim that there exists circumstances rendering such State process ineffective to protect his rights because it will take at least eight months to proceed through said State Courts and because the State Court would overrule his effort due to the fact that his Federal rights and not his State rights were violated, is wholly without merit and will not suffice to allow Petitioner to by-pass his available State remedies provided by 22 Oklahoma Statutes §§1080 et seq. If Petitioner's claim that he stands convicted by the Courts of the State of Oklahoma in violation of his Federal Constitutional rights is meritorious, the State Courts will recognize such fact and early relief should be granted Petitioner by the Courts of the State of Oklahoma. Petitioner's claim that the State Courts would overrule his Petition because only his Federal and not his State rights were violated is an invalid claim as the State Courts have the same duty to protect Federal Constitutional rights as do the Federal Courts.

It is so ordered this 2 day of June, 1972.

Fred Daugherty
Fred Daugherty
United States District Judge

FILED

United States District Court

FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUN 2 1972

JOHN H. POE, Clerk
U. S. DISTRICT COURT

CIVIL ACTION FILE NO. 70-C-207

Albert & Harlow, Inc., an
Oklahoma Corporation

vs.

The Travelers Indemnity Company, a
Foreign Insurance Corp.

vs

Robert E. Acklin and J.W. Bill Allen

JUDGMENT

This action came on for trial before the Court and a jury, Honorable Allen E. Barrow
, United States District Judge, presiding, and the issues having been duly tried and
the jury having duly rendered its verdict, for the third party defendant, J.W. Bill Allen

It is Ordered and Adjudged that the jury finds for the third party defendant,
J.W. Bill Allen and against plaintiff, Albert & Harlow, Inc., on J.W. Bill
Allen's counter-claim, and that the plaintiff take nothing, that the action
is dismissed on the merits, as to the third party defendant, and that the
third party defendant, J.W. Bill Allen recover Twenty Four Thousand, Nine
H undred Twenty One (\$24,921.13) and Thirteen Cents, and their costs of
action, against the plaintiff.

Dated at Tulsa, Oklahoma
of June , 1972 .

, this 2nd day

JOHN H. POE

Clerk of Court

301
D. J. L. L. L.
Deputy Clerk.

JUN 2 1972

United States District Court

JOHN H. POE, Clerk
U. S. DISTRICT COURT

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

Albert & Harlow, Inc., an
Oklahoma corporation

vs.

The Travelers Indemnity Company,
a foreign insurance corporation
vs
Robert E. Acklin and J.W. "Bill"
Allen

CIVIL ACTION FILE NO. 70-C-207

JUDGMENT

This action came on for trial before the Court and a jury, Honorable Allen E. Barrow, United States District Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdict, for the defendant, The Travelers Indemnity Company.

It is Ordered and Adjudged that the plaintiff Albert & Harlow, Inc., take nothing, that the action is dismissed on the merits, and that the defendant recover of the plaintiff, their costs of action.

Dated at Tulsa, Oklahoma
of June , 19 72.

, this 2nd day

JOHN H. POE

Clerk of Court

By: [Signature] Deputy Clerk.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,

Plaintiff,

-v-

Sheward Williamson, et al.,

Defendants.

CIVIL NO: 72-C-76

FILED
JUN 1 1972
JOHN H. POE, Clerk
U. S. DISTRICT COURT

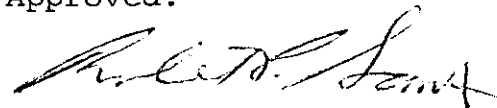
O R D E R

NOW on this 31st day of June, 1972, there came on for consideration the Motion for the Plaintiff to Dismiss this action without prejudice. The Court finds that such motion is well taken for the reason that the defendants, Sheward Williamson and Helen Williamson, have paid the arrearage due the United States so that the mortgage being foreclosed upon is no longer in default.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that this action is dismissed without prejudice.

Luther Bohannon
UNITED STATES DISTRICT JUDGE

Approved.



ROBERT P. SANTEE
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
Plaintiff,)
-v-)
)
Robert Glenn Quick, et al.,)
)
Defendants.)

CIVIL NO: 71-C-411

FILED

JUN 1 - 1972

JOHN H. ROE, Clerk
U. S. DISTRICT COURT

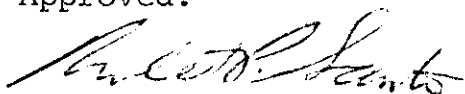
O R D E R

NOW on this 31st day of June, 1972, there came on for consideration the Motion for the Plaintiff to Dismiss this action without prejudice. The Court finds that such motion is well taken for the reason that the arrearage due the United States has been paid so that the mortgage being foreclosed upon is no longer in default.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that this action is dismissed without prejudice.

Luther Bohannon
UNITED STATES DISTRICT JUDGE

Approved.



ROBERT P. SANTEE
Assistant United States Attorney